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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

CENTRAL VALLEY AUDITORIUM

SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 17, 2003

9:30 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Jose Medina, Vice Chairperson

Steven R. Jones

Michael Paparian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Michael Bledsoe, Acting Chief Counsel

Jim Lee, Deputy Director

Howard Levenson, Deputy Director

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

Debbie Baluch

Elliott Block, Staff Counsel

Mark de Bie

Deborah McKee

Pay Paswater

Sharon Wadell

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APPEARANCES CONTINUED

ALSO PRESENT

Shari Afshari, County of LA, Department of Public Works

Mark Aprea, Republic Services

Ken Barker, Hanson Aggregates

Tom Davis, Chandler Sand and Gravel

Jason Gonsalves, City of Irwindale

Mark Murray, Californians Against Waste

Bill Snyder, Deputy Director, CDF

Larry Sweetser, Rural Counties ESJPA

Chuck White, Waste Management

Peter Wulfman, San Bernardino County

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Welcome to the
3 second day of our California Integrated Waste Management
4 Board meeting. We had a very long day yesterday. And I
5 want to say again thank you to the staff and to the Board
6 members for hanging in there. I think we got a lot done
7 and we're happier today about that.

8 So, anyway, with that would you please call the
9 roll.

10 SECRETARY WADDELL: Jones?

11 BOARD MEMBER JONES: Here.

12 SECRETARY WADDELL: Medina?

13 VICE CHAIRPERSON MEDINA: Here.

14 SECRETARY WADDELL: Paparian?

15 BOARD MEMBER PAPARIAN: Here.

16 SECRETARY WADDELL: Peace?

17 BOARD MEMBER PEACE: Here.

18 SECRETARY WADDELL: Washington?

19 BOARD MEMBER WASHINGTON: Here.

20 SECRETARY WADDELL: Moulton-Patterson?

21 CHAIRPERSON MOULTON-PATTERSON: Here.

22 Ex partes, Mr. Jones?

23 BOARD MEMBER JONES: I'm good.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Ms. Peace.

25 BOARD MEMBER PEACE: I'm up to date.

1 CHAIRPERSON MOULTON-PATTERSON: And I'm also up
2 to date.

3 Mr. Medina.

4 VICE CHAIRPERSON MEDINA: None to report.

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

6 BOARD MEMBER PAPARIAN: Yeah, I spoke to John
7 Cupps about just kind of reviewing yesterday's actions and
8 talking about E-waste.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

10 BOARD MEMBER WASHINGTON: I have none.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

12 And we're going to be going right in to Item 29,
13 which is a presentation on southern California tree
14 mortality due to Bark Beetle infestation and related wood
15 waste issues that I was mentioning yesterday.

16 And, Mr. Leary, you'll give the introductory
17 remarks.

18 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
19 Chair.

20 Is this on?

21 Good morning, members.

22 Agenda Item 29, as the Chair just mentioned, is a
23 presentation on southern California tree mortality.

24 And as the Board will recall that over the last
25 couple of months the Board through its delegation to me

1 has approved -- or approved the granting of emergency
2 waivers for a couple of transfer stations in San
3 Bernardino and Riverside County. And it's with regards to
4 the Bark Beetle infestation and the amount of tree removal
5 that needs to occur as a result of that infestation.

6 Although generally aware of the situation down
7 there in reviewing the specifics of those approvals, I
8 don't know that we were quite as dramatically aware of the
9 situation in these two counties until the Chair and I
10 attended a meeting in the Governor's office last month, on
11 August 14th, where the heads of many of the major
12 departments and agencies within the state government were
13 meeting to discuss this problem.

14 And I think you'll find in the presentation that
15 we'll hear today that the Board's interest in the safe
16 management of waste and government's interest in the
17 protection of life and property don't so dramatically
18 interact as much as they do on this item. This is a very
19 severe issue that we are trying to participate in the
20 state's and the federal government's reaction to this
21 situation and trying to resolve the situation.

22 You'll hear this morning about some of the
23 parameters of the problem as well as some of the ways
24 other state agencies and we, the Board, are trying to
25 affect that problem and trying to work for the good. But

1 it's dramatic and it's significant. And I, like I'm sure
2 you do, look forward to this presentation.

3 And with that I'll turn it over to Pat Paswater
4 to get it started.

5 CHAIRPERSON MOULTON-PATTERSON: Good morning.

6 MR. PASWATER: Good morning, Madam Chair, Board
7 members.

8 Thank you, Mark, for the introduction.

9 (Thereupon an overhead presentation was
10 Presented as follows.)

11 MR. PASWATER: My topic this morning will be on
12 tree mortality and the Bark Beetle infestation in southern
13 California. I will be addressing all Board issues
14 relative to this item.

15 The situation in southern California is of an
16 imminent fire danger resulting from prolonged drought,
17 overstocked forest, and Bark Beetle infestation that has
18 reached monumental proportions.

19 I have borrowed heavily in my PowerPoint
20 presentation today from the Department of Forestry and
21 Fire Protection, a presentation that was given last month
22 to the Chair and to the Executive Director.

23 And with that, I'll move right in to it.

24 --o0o--

25 MR. PASWATER: The orange and brown areas are a

1 depiction of the San Bernardino National Forest most
2 heavily drought-affected areas. Basically it covers two
3 counties, of San Diego and Riverside -- I mean San
4 Brnardino and Riverside. And San Diego County is another
5 forested area that is also being impacted by this
6 phenomena.

7 --o0o--

8 MR. PASWATER: In this slide you'll see with the
9 bark removed from a conifer tree, that in the center of
10 the slide here where I will put the pointer, there are two
11 Bark Beetles, one of the species that are impacting the
12 trees in the area. There are a number of different types
13 of trees that are being impacted as well as vegetation
14 associated with the understorage.

15 --o0o--

16 MR. PASWATER: To give you some idea of beetle
17 population dynamics, each mating pair of beetles can
18 increase a population alone by 390,000 in four generations
19 from this pair of beetles. If they have five generations
20 during a season, you can almost reach an increase of
21 10 beetles from that pair.

22 They're expecting four generations during 2003
23 relative to these beetles.

24 --o0o--

25 MR. PASWATER: This is a picture I believe from

1 the crestline area in the San Bernardino Forest. And
2 basically you can see the nice dark green evergreen trees,
3 conifers. And then you see immediately behind them kind
4 of these lighter shade of green trees. Those are
5 definitely stressed, probably dead and dying. And just
6 behind them you see brown trees, which are the imminent
7 fire danger.

8 --o0o--

9 MR. PASWATER: This is a picture from the Lake
10 Arrowhead area. You can see that the water is down
11 substantially in the lake. As you notice, the forested
12 areas that I will pinpoint in this area and this area,
13 they are basically intermingled with houses throughout
14 that. So you have a dire situation of high density
15 residences in association with this high fuel loading
16 situation in the forest.

17 --o0o--

18 MR. PASWATER: On the opposite side of the lake
19 you have a good depiction of what happens when you have
20 the urban area that -- it's showing up too well here with
21 my pointer. But basically on the left side of the screen
22 you can see the houses interspersed with dead and dying
23 trees. And then kind of a diagonal running from the
24 bottom of the screen up towards the right you'll see where
25 it interacts with the national forest and all the dead and

1 dying trees there. Both of them present a fire hazard and
2 danger to the residents of this area.

3 --o0o--

4 MR. PASWATER: This the my favorite slide that
5 was furnished by CDF. Basically, what looks like boulders
6 are really houses there. And you can see that there is a
7 high density of them that are interspersed with the dead
8 and dying trees in this forest.

9 --o0o--

10 MR. PASWATER: On March 7, 2003, the Governor
11 declared a state of emergency in the counties of
12 Riverside, San Bernardino, and San Diego as a result of
13 this tree mortality that's attributed to the drought and
14 Bark Beetles. Since that time CDF and OEHHA have been
15 working with other state agencies, federal agencies, and
16 local agencies to, you know, rectify the serious fire
17 hazard that exists there.

18 --o0o--

19 MR. PASWATER: Basically from a regional
20 perspective the emergency spans all of the forested areas
21 of southern California, but the emphasis of San Bernardino
22 and Riverside and San Diego Counties because of the high
23 tree mortality that's occurring there. This is involving
24 approximately 300,000 acres on public lands and 50,000
25 acres on private lands.

1 --o0o--

2 MR. PASWATER: The affected acreage is not
3 expected to increase substantially according to CDF.
4 However, the percentage of vegetation mortality will
5 increase within the affected areas. Some areas are
6 lightly hit at this juncture with a few percentage of
7 dying trees and some of them are 80 or 100 percent dead in
8 dying trees per acre.

9 --o0o--

10 MR. PASWATER: The expected impacts in the event
11 of a catastrophic wildfire would be life loss, property
12 loss, insurance claims, loss of coverage in the area. The
13 economy would suffer.

14 --o0o--

15 MR. PASWATER: The watershed would also
16 experience some downstream erosion. And most particularly
17 of interest to this Board, you will have solid waste
18 disposal as an issue prior to and in the event of the
19 wildfire.

20 --o0o--

21 MR. PASWATER: This is a depiction of the act of
22 landfills, transfer stations, and composting facilities
23 and operations in the southern California area. You will
24 see the red dots are the landfills, the smaller blue dots
25 depict the transfer stations, and the yellow dots depict

1 the compost operations in that area.

2 To the best of my knowledge, a majority of the
3 material is being processed through two transfer stations
4 at present: Heaps Peak in San Bernardino County; and
5 Idyllwild, a collection station in Riverside County.

6 --o0o--

7 MR. PASWATER: In each of the three county areas
8 there's been a mountain area safety taskforce established.
9 It has various stakeholders including local, state, and
10 federal agencies. Their priorities are to protect road
11 corridors, short-term refuge areas and communication sites
12 in these mountain communities. They also are interested
13 in the Wildland-Urban Interface Protection zones. And
14 they're most urgently exploring alternatives for biomass
15 and waste utilization.

16 --o0o--

17 MR. PASWATER: These are four depictions by CDF
18 of potential markets. Saw logs that could go to sawmills
19 and produce marketable lumber. Homes made out of such
20 logs that are just bark removed and milled slightly.
21 There has actually I believe one been built in the area
22 recently, and there's contracts for a few more.

23 A good amount of material from Riverside County,
24 I understand, is going to a biomassed energy facility in
25 Mecca, California.

1 And some material I believe in San Bernardino
2 County is going to a composting operation, as well as use
3 at the landfill for ADC and slope-erosion control.

4 --oOo--

5 MR. PASWATER: And with that, that will conclude
6 my PowerPoint presentation. And I will, you know,
7 entertain what the Chair would like to do. We have
8 speakers from Department of Forestry, Deputy Director Bill
9 Snyder. He will update you on the potential biomass
10 removal.

11 And there's also a gentleman from San Bernardino
12 County Solid Waste Division, Peter Wulfman, that has a
13 short PowerPoint presentation.

14 CHAIRPERSON MOULTON-PATTERSON: Great. Thank you
15 very much.

16 Any questions from the Board at this time, or
17 should we go on with the speakers?

18 I think we'll go right -- do you have any special
19 order that you would -- I have a couple of speaker slips
20 here, but --

21 MR. PASWATER: Bill Snyder I believe will be the
22 next speaker.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
24 Good morning. Thank you for being here.

25 MR. SNYDER: Good morning, Madam Chairman,

1 members of the Board. My name is Bill Snyder. I'm Deputy
2 Director for Resource Management for the California
3 Department of Forestry and Fire Protection.

4 (Thereupon an overhead presentation was
5 Presented as follows.)

6 MR. SNYDER: Director Tuttle sends her regrets.
7 She had wanted to be here, but, unfortunately, she had
8 another commitment out of state.

9 But this is a serious problem. And I think Mr.
10 Paswater set the context for it. And as you look through
11 the handout I have, really discuss a lot of the bullet
12 points that I had at the top of the handout. So I'm not
13 going to go through those at this point in time. I think
14 what I'll try and do is focus on the initial estimates of
15 volume of material that we have been working to develop.
16 And then pass the baton then to Mr. Wulfman, who can
17 explain how some of this material is being utilized.

18 I do want to point out to the Board that really
19 the initial efforts for utilization of all this waste have
20 just begun. And we anticipate that those efforts will be
21 accelerated as a byproduct of a number of federal grants
22 the Department is working on as well as efforts by
23 Southern California Edison and the local communities.

24 So we expect that material coming into the waste
25 stream is going to accelerate substantially above where it

1 is now. And clearly the options that are available to us
2 to merchandise as much of this material as possible for
3 products other than landfill material I think is going to
4 be important to reducing the amount that goes into the
5 waste stream.

6 --o0o--

7 MR. SNYDER: This next slide I think is just to
8 give you an idea how much mortality has occurred. Lake
9 Arrowhead is one of the primary areas where residential
10 development has occurred in southern California, and at
11 this point is the one that was most dramatically affected
12 as of early this year. Big Bear and Idyllwild are the
13 other two communities that are also experiencing
14 accelerated rates of tree mortality.

15 --o0o--

16 MR. SNYDER: In response to a question we had
17 from the California Energy Commission the Department
18 looked at a process to estimate how much volume and how
19 much material was dead currently and also make some
20 projections about how much of that material would likely
21 need to be removed in order to provide for a community's
22 safety. The community's safety issue is primarily for
23 fire protection as well as for infrastructure protection,
24 transmission lines, and roads.

25 --o0o--

1 MR. SNYDER: In looking at the first part of the
2 equation, we attempted to look at how much total dead tree
3 biomass there was within this 355,000 acre area. You need
4 to keep in mind these numbers do not include San Diego
5 County. So these are just primarily for San Bernardino
6 and Riverside and primarily focused on the three
7 communities involved in Arrowhead, Big Bear and Idyllwild.

8 But the estimates as of spring 2003, we estimated
9 there are about 2.5 million bone dry tons that were dead.
10 If you project that out to the third bar on that graph, if
11 we assume that all trees would die, that could go up to 8
12 and a half million tons. Given the advancement of the
13 current infestation and the reality the trees are still
14 dying, we anticipate that we're somewhere closer to that
15 middle bar at this point in time, with about half of the
16 forested area down there dead at this point.

17 If you look at how that tonnage is spread out,
18 the yellow bar there represents federal, which is
19 primarily United States Forest Service within that area.
20 The maroon bar is other private, which would be
21 residential lots. And the purple bar is Southern Cal
22 Edison, which is primarily areas located within 150 feet
23 of any of their transmission or power lines there.

24 We also did some futuring to try and figure out
25 and recognize that not all this material would come into

1 the waste stream. A lot of it is in areas that are
2 inaccessible due to remoteness or steep slopes or areas
3 that would otherwise preclude utilization of the material.

4 --o0o--

5 MR. SNYDER: In looking at what is actually out
6 there to be removed in terms of the high risk biomass, in
7 April of 2003 estimated about a million bone dry tons that
8 were in and around areas that were located close to the
9 infrastructure that the Department determined were
10 necessary to have tree removal done to provide for public
11 health and safety.

12 We also made some projections what happens if
13 half of the remaining live trees die, which is the middle
14 bar. And that raises the total to 2.5 million bone dry
15 tons, which is probably a relatively realistic figure.
16 And we are probably significantly along on that projection
17 at this point.

18 If everything died, which we don't anticipate,
19 but it could happen if the drought does continue, we'd be
20 looking at a little over 4 million bone dry tons.

21 --o0o--

22 MR. SNYDER: I guess key points I wanted to leave
23 you with is the dead tree volume is rapidly increasing.
24 As Mr. Paswater pointed out, there are given the drought
25 conditions numerous life cycles of these Bark Beetles that

1 are continuing to impact these stands.

2 We have three different ownerships. And
3 treatment of those ownerships obviously are going to
4 create differences in how material comes into the waste
5 stream. Southern Cal Edison probably is the most imminent
6 party who's going to start generating large amounts of
7 material to the waste stream, because they do and will be
8 pursuing an aggressive program for removal of trees within
9 150 feet of all the power lines.

10 As we pointed out, once that effort starts the
11 current level of material coming into the waste stream
12 could go as high as 1,500 tons per day, which is a
13 significant amount of material for the local counties to
14 handle down there.

15 We are exploring a number of different end uses.
16 Saw logs have been part of the mix all along, and I think
17 will continue to be a part of the mix in terms of
18 utilization of some of the dead material. The problems
19 that mill owners were experiencing initially with the saw
20 logs that were generated around the homes were associated
21 with embedded iron and other material, that I don't think
22 will be the case when we get further out into the power
23 line clearing and other sorts of things.

24 Other types of utilization would include fuel,
25 primarily biomass. There are a number of initiatives

1 under way now to look at siting of biomass plants within
2 the area.

3 And then obviously landfill for a portion of the
4 material.

5 But we do recognize that integration across all
6 the ownerships and agencies is imperative in order to help
7 us all achieve the primary objective, which is get this
8 material removed and reduce the fire danger. But also the
9 outcome of that is how to treat it and how to deal with it
10 from a waste management perspective.

11 We had a number of requests. And I think this is
12 primarily information for your board at this point in
13 time. But we do and continue to wish to have a close
14 working relationship with staff. And we will endeavor to
15 keep your staff informed as we develop potential
16 utilization strategies for this wood. And hopefully
17 they'll be part of that.

18 --o0o--

19 MR. SNYDER: We also believe the Board can be of
20 particular assistance in continuation of emergency
21 waivers. Obviously, there's a lot more material coming in
22 to these landfills down there than anybody would have
23 anticipated.

24 We're also looking at trying to figure out how to
25 subsidize transportation costs. It appears that subsidies

1 are going to be necessary in order for biomass and saw log
2 utilization to be viable options for routing some of this
3 material into other areas besides landfills.

4 So we're exploring those options at this point in
5 time. And any assistance that your board could provide in
6 terms of encouraging subsidies for this type of activity
7 would certainly be helpful.

8 And the last thing I'd like to leave you with
9 is -- I know your board is committed, as are we, to
10 getting this problem solved. And I think Peter Wulfman is
11 going to explain the magnitude of the problem that he's
12 dealing with from his end just from a waste management
13 standpoint. And there are a number of things in motion
14 down there from the fire protection aspect of it, to the
15 tree removal aspect of it, to the waste management, as
16 well as air quality and a number of other things
17 associated with the whole effort down there.

18 And we do appreciate the time today to keep your
19 Board abreast of what's going on down there. And welcome
20 any questions that you might have.

21 Thank you.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
23 Snyder. And, you know, this Board's highest priority is
24 public health and safety. And we want to be a partner
25 here and do whatever we can. I understand we have

1 granted, as you said, emergency waivers. And we want to,
2 you know, do whatever we can.

3 Mr. Leary.

4 EXECUTIVE DIRECTOR LEARY: Yeah, Madam Chair, if
5 I might.

6 Bill, in our briefing over at the Governor's
7 office, Director Tuttle in the fire protection area merely
8 emphasized the kind of crisis nature of fire protection in
9 the sense that her view of it was that a catastrophic fire
10 was not a question of if, but a question of when. Is it
11 still the Department of Forestry's analysis of the
12 situation that a fire is pretty likely in the near future?

13 MR. SNYDER: It is clearly a matter of when and
14 not if. And there was a fire that covered about 1,500
15 acres about two weeks ago. And I think that fire
16 demonstrated the benefit of the preplanning as well as the
17 augmentation of fire fighting forces down there. And it
18 really is a tribute to the planning that has gone in to
19 the effort to this point.

20 But that's one piece of it. And clearly fuel
21 reduction is another big piece of it. Because we're
22 racing to try and get the fuels modified to the point that
23 if a fire does occur -- when it does occur, that we'll be
24 able to control it and minimize the loss of private
25 property and possibly life down there. So, yeah --

1 CHAIRPERSON MOULTON-PATTERSON: There is a
2 problem also with being one road in and one road out or
3 something like that, which really compounds the problem,
4 doesn't it?

5 MR. SNYDER: Yes. The highway and transportation
6 structure -- infrastructure down there is such that there
7 are very few routes in and out. And a lot of the lots
8 that were developed years ago, the infrastructure
9 associated with roads and everything else in those
10 communities, they're very narrow roads, and evacuation in
11 an orderly fashion is essential in order to get people out
12 of those communities. There's a real high potential for a
13 poorly planned evacuation to just amount to gridlock with
14 people not being able to get in and fire fighting forces
15 not able to access the fires.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones had a
17 question.

18 Oh, excuse me, Mr. Leary. Had you not finished?

19 EXECUTIVE DIRECTOR LEARY: Just one follow-up.

20 In the issue of tree removal from the taking down
21 of the trees to moving the trees out of the area to the
22 waste management infrastructure, what would you
23 characterize as kind of the rate limiting step? Is it the
24 ability to remove the trees from the forest or to
25 transport the trees out of the forest to a management area

1 or the endpoint of the tree removal, that is, biomass or
2 some other outlet for wood waste?

3 MR. SNYDER: Well, we've experienced difficulties
4 in all three areas. The rate of tree removal really is
5 dependent on the number of operators that are willing to
6 come to the area in order to work. And the work down
7 there is very difficult, particularly working amongst
8 houses and other types of structures, in terms of removing
9 trees is very difficult. And we've had a hard time
10 getting enough operators.

11 Utilization and marketing of product has been a
12 problem for us as well in terms of just the transportation
13 costs from that area to points of utilization, either at a
14 sawmill or a biomass plant. So that has been problematic
15 and has been up and down as well.

16 And I think what we do anticipate is as the
17 effort accelerates and Southern California Edison moves
18 into the picture, that they're going to bring more
19 operators in. What that's going to do to the mix of
20 operators that are currently working on the private lands,
21 we're not certain. But it certainly will exacerbate the
22 landfill issues in terms of just the amount of material
23 being delivered to the landfills. So, you know, I think
24 any strategy that is developed clearly is going to have to
25 look at rate of generation of material and the potential

1 for that to overwhelm the local facilities.

2 But clearly I think Peter Wulfman has a much
3 better handle on how they're dealing with that at this
4 point in time.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.
6 Mr. Jones.

7 BOARD MEMBER JONES: Thank you, Madam Chair.
8 Thank you, Mr. Snyder.

9 This Board is working closely with your agency on
10 the Sudden Oak Death issues. There was the concern about
11 transportation for the, you know, potential spread of
12 Sudden Oak Death into different areas.

13 Do we need to be -- I didn't hear anything yet.
14 When these trees are downed and put into some form, is
15 there a risk of the beetles to spread? Or is it that once
16 they're in, they're in, they're not going to spread? I
17 mean from a waste handling standpoint, do we have concern
18 that we need to be aware of there?

19 MR. SNYDER: In most cases, no. The life cycle
20 of the Bark Beetles is such that by the time those trees
21 are orange, as you saw most of these trees, those beetles
22 have matured and have exited and basically have attacked
23 adjacent green trees. And most of the removal I've seen
24 down there has been targeted to removal of clearly dead
25 trees.

1 There would be a potential, although somewhat
2 limited, for removal of trees that were infested but had
3 not yet turned orange. And removal of those trees to try
4 and capture those Bark Beetles before they matured and
5 exited to attack additional trees would be a desirable
6 outcome.

7 I really don't know that I'd perceive a problem
8 with utilizing that material in terms of the spread.

9 The Sudden Oak Death is a pathogen, a phitothera,
10 which is a -- we're really not certain of what vectors
11 that spreads. So it is a little different issue in that
12 it's a fungus.

13 BOARD MEMBER JONES: Right. I appreciate it.

14 I just didn't know and I wanted -- you know, I
15 mean this -- because I know there's two portable sawmills
16 that are going into San Bernardino. And I could imagine
17 that there's going to be some portable grinding operations
18 that are going to go in there. And I just wanted to get
19 an understanding if we're going to create another problem.
20 But it doesn't sound like we are.

21 MR. SNYDER: No, I don't think we should be.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you.

23 And if you've completed your testimony, we'll go
24 to Peter Wulfman, San Bernardino County Solid Waste
25 Management.

1 And thank you, Mr. Snyder.

2 MR. WULFMAN: Good morning.

3 CHAIRPERSON MOULTON-PATTERSON: Good morning.

4 MR. WULFMAN: Peter Wulfman, San Bernardino
5 County, Division Manager, Solid Waste Management.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 MR. WULFMAN: I'm here today to inform you of
9 what we're doing and what we're having trouble with. That
10 question that was asked previously about where is the
11 stranglehold on this system. It's at all levels.

12 The number one stranglehold is the amount of
13 people who can cut trees. We're trying to develop and get
14 ready for SCE to begin their tree cutting.

15 --o0o--

16 MR. WULFMAN: We started out in December with 100
17 tons in that month. As of March 2003 we were up to 600
18 tons a month of debris. In April of 2003 we're up to 600
19 tons a week. And in August 2003 we're up to 600 tons per
20 day of waste that we're dealing with.

21 The total tonnage received to this date is more
22 than 60,000 tons of waste that we've processed. The total
23 tons of waste anticipated right now, we don't really have
24 a handle on it. But as soon as SCE gets on line we think
25 we're going to do 1,500 tons per day for the next five

1 years.

2 --o0o--

3 MR. WULFMAN: Initially, we treated this as trash
4 due to the low marketability. A lot of debris we were
5 getting in was just the remainders of the saw logs. The
6 saw logs were going to the mills.

7 Current methods. We have a chipping and grinding
8 operation at Heaps Peak Transfer Station where we're
9 running about 350 tons a day.

10 We use that material for erosion control at our
11 numerous landfills, both open and closed.

12 Some of it goes to the Colmac Energy. However,
13 that's in Riverside County. And Riverside County's got
14 almost exclusive use of that. That's where all their
15 waste is going, so that we only get secondary use of that.

16 We are giving a small portion to compost
17 facilities.

18 And we're also using it as alternative daily
19 cover on some of our landfills.

20 --o0o--

21 MR. WULFMAN: This is our Heaps Peak Transfer
22 Station. We're permitted for 300 tons per day of trash.
23 And we normally receive about 150 tons per day of trash.
24 Currently it averages about 400 tons of Bark Beetle waste
25 going through this facility.

1 On the right of the picture you can see a portion
2 of the incoming mass. That mound is about 20 feet high,
3 it's over 200 feet long, and 100 feet wide. In the middle
4 you'll see the in-line grinder. It goes into this grinder
5 and comes out the other end as chip material. You'll see
6 about -- that stack over there is probably 35 feet tall,
7 has about 100 foot base, and we estimated about 300 tons
8 of waste.

9 One of the problems we've had just recently,
10 because of that fire, was our main route down the hill
11 from the transfer station's been closed for -- was closed
12 for over a week, and we had to route our trucks a
13 different way. And so we didn't have as many cycles of
14 trucks, so we started building up a problem.

15 I'll just point out the landfill gas building and
16 the transfer station. The transfer building is a 12 bay
17 transfer station. It's completely obliterated by this
18 pile of mass. This is a very constricted area. This is
19 about all the area we have to work in at the transfer
20 station.

21 --o0o--

22 MR. WULFMAN: Our second method of disposal has
23 been air curtain destructors. These are approximately one
24 half to two thirds the cost of disposing it through the
25 grinding process. Currently, we burn about 250-tons-a-day

1 capacity when we aren't constricted by winds. Each
2 incinerator averages seven tons an hour. We're burning 24
3 hour a day, six days a week.

4 The ash byproduct is landfilled right now. We're
5 researching markets for the ash. And we're also looking
6 to combine the excess dirt we get in with the wood
7 waste -- combine it with ash and get permission to use it
8 as ADC.

9 We're in the process of purchasing a third
10 burner, which is larger than our current burners. And
11 we're hoping that the total capacity would be 450 tons per
12 day on that issue.

13 --o0o--

14 MR. WULFMAN: This is an air curtain destructor
15 site. It's located about five miles north of Lake
16 Arrowhead on Highway 173. We had to pave two miles of
17 Highway 173. Highway 173 is the only road -- state
18 highway in California that's not paved entirely.

19 Over on the left you can see the two air curtain
20 destructors. You also see an excavator, Rotty Mills Air
21 Curtain Destructors.

22 One of the benefits of these destructors is that
23 they are very low emissions. Basically there's an air
24 curtain that goes across the top into the box and keeps
25 recycling the particulate matter into the fire. These

1 fires are at about 2,000 degrees. And as you can see,
2 we've got about 800 tons of waste backlogged there.

3 Right now you'll see a lot of long logs basically
4 because the mills have been cutting their prices. We're
5 receiving a lot more waste because of the logging
6 industry.

7 The other thing that happens is that most of the
8 people cutting down the trees are not loggers, and they
9 create -- when they take down the trees, they might take
10 them down with a crane. But when they load them, they cut
11 them in two-foot lengths because they can't lift anything
12 more into their trucks. So we get a lot of two-foot
13 lengths that don't burn very well. But we really like the
14 ten-foot ones to burn.

15 The air curtain destructor -- oh, I went
16 backwards, I think.

17 --oOo--

18 MR. WULFMAN: We've also developed a log sorting
19 and storage area near the dam. This was developed to
20 allow private logging companies to prepare -- store logs
21 and transport them to sawmills.

22 There's only one sawmill within an economic range
23 of the site. It's up near -- in Terra Bella, which is
24 north of Bakersfield in the Sierras. The sawmill dropped
25 the price that it would pay for logs in July 2003

1 dramatically. The results are fewer logs are being
2 diverted to small sawmills.

3 Our volume for the county is supposed to increase
4 by 1,300 tons the week that they dropped their prices. We
5 went from I think it was 1,100 tons to 2,400 tons in one
6 week.

7 We're working with a private pallet manufacturer.
8 We're hoping he's on site within 60 days. Basically what
9 he's going to do is create -- build a sawmill at that site
10 and create cans to send down to his processing facility in
11 Los Angeles. We're hoping that he does about two million
12 board feet a month or 300 tons per day with that
13 operation.

14 We're providing these CDF portable mills. And
15 hopefully will allow them -- allow some of the loggers to
16 make some product -- sample product for other people. One
17 of the loggers wants to make some sample product to ship
18 to China. He's going to ship about -- not a million board
19 feet, but maybe 500,000 board feet there as a test case.
20 And if that works out, then they'll build their own
21 sawmill at the site and ship to China.

22 --oOo--

23 MR. WULFMAN: This is the log processing site.
24 You can see we have at least -- I think there's five or
25 six different logging companies sitting on the site.

1 Great Scott here in the front is the persons that want to
2 ship logs to China. You can see they've got a fairly good
3 size stash of logs.

4 Over to the right out of view is the Paul Bunyan
5 site. Just north of them is All American with -- they
6 have a small portable mill where they're making logs for
7 log homes.

8 In the back you'll see Mowbray's Tree Service.
9 That's the SCE contractor. We've provided them a space.

10 Over to the left is Evergreen Resource
11 Management. They have a small portable mill where he's
12 also sawing logs for log homes.

13 But what you can't see is that whole area from
14 the white truck all the way over to where the arrow is
15 down to Mowbray's is full of logs. It's about three
16 stacks that are 150 to 200 feet long and 20 feet high.

17 Up in the front here is an open space. We just
18 kicked out somebody because they weren't doing much there.
19 So we're going to relocate the people that are in the
20 middle of the site to there so that the pallet mill can go
21 into a protected area.

22 We're viewing this from a hospital site right
23 now. The ground that this photograph's taken from is a
24 hospital site, so we're trying to be very conscious of how
25 much noise and dust we produce at this site.

1 In the bottom right corner is the SCE job
2 trailers. That's going to be their headquarters. Down
3 below off of this picture is where they're going to keep
4 all their line equipment at another site that's owned by
5 the county.

6 --o0o--

7 MR. WULFMAN: Our next step is we're applying for
8 a CUP to use the existing inactive Cajon Landfill. It's
9 located along Highway 215, and right next to the railroads
10 that go through there. What we're planning on doing there
11 is storing logs and processing logs. We have private
12 companies and us involved with major logging -- major
13 lumber producing people, like Georgia Pacific. Hopefully,
14 we're going to be able to ship through either train or
15 truck up to Washington State to make paper pulp out of
16 this wood.

17 We're looking at requests for proposal for a
18 sawmill at this site hopefully. And it will require them
19 to process three million board feet a month. And this
20 will be used for other log storage and diversion as
21 necessary. We're working cooperatively with the Regional
22 Water Quality Control Board and the LEA for reuse of Cajon
23 for this purpose.

24 The SCE is considering a separate disposal
25 diversion yard in Etiwanda area, which is near the Fontana

1 Raceway. They have about 200 acres or 250 acres there.

2 And they're also proposing -- considering
3 building a biomass-to-energy plant. Any biomass-to-energy
4 plant though is at least two years out. And in the next
5 two years is still -- the Solid Waste Management Division
6 is going to bear the brunt of all this waste.

7 --o0o--

8 MR. WULFMAN: So far this fiscal year we spent \$1
9 million handling this waste. We are expecting to spend at
10 least \$4 million next year -- or this current fiscal year,
11 and \$6 million each year for the next five years.

12 We're hoping to create more diversion to reduce
13 the disposal costs on -- like the other gentleman said,
14 transportation is our largest factor. Basically, if you
15 can get -- if you can move -- if you can transport it
16 instantaneously to the sawmill, it would be economically
17 viable. But right now there's about a \$400 per truckload
18 loss if you send it up to the sawmill in Terra Bella.

19 There's very few end uses of pine wood. What
20 I've been told from the loggers is that about 10 or 15
21 years ago, with all the environmentalist action, the pine
22 forests were not farmed and, therefore, people found other
23 products to use instead of pine, mostly plastics. And so
24 now there's not a lot of pine out on the market.

25 So as we flood the market with pine, it's not

1 going very far. In fact, I had news from our loggers that
2 the sawmill's going to actually stop accepting logs in
3 November entirely.

4 What we're doing up here, what I want to appeal
5 for help with is getting additional diversion programs,
6 finding different uses, using the California Integrated
7 Waste Management staff to assist us in doing that, and
8 also assistance in finding any grants to help offset the
9 existing disposal and diversion programs that we're
10 handling.

11 Thank you very much.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you so much
13 for coming today and giving us that presentation.

14 Do any Board members have questions or comments?

15 I see none.

16 We really appreciate it. And, again, we want to
17 be as helpful as we can and work cooperatively with you
18 and all the other state and local agencies.

19 MR. WULFMAN: Thank you very much.

20 CHAIRPERSON MOULTON-PATTERSON: So let us know
21 what we can do.

22 Thank you.

23 MR. WULFMAN: Can I make a little small comment?
24 That in about four of those CDF slides my house appears in
25 there in Lake Arrowhead. So I'm personally -- I've

1 also -- I had to cut down three trees on my property.

2 On one of those slides I saw that you could see
3 the difference between the forest and where we've cut the
4 trees on the properties and then where the trees need to
5 be cut on the properties. It was a pretty amazing photo.

6 CHAIRPERSON MOULTON-PATTERSON: Well, I've spent
7 a lot of really nice times in Lake Arrowhead. And it's
8 just -- it's heartbreaking to see what's happening to that
9 area.

10 So thank you for coming.

11 MR. WULFMAN: Thank you very much.

12 BOARD MEMBER PEACE: As the trees are being cut
13 down, are there any new trees going in? Is there
14 replanting going along with the --

15 MR. WULFMAN: Amazingly the areas are reforesting
16 themselves. I think that the homeowners are not
17 replanting at this time because they're afraid that if
18 they replant, they're just going to get eaten up.

19 It's amazing if you drive around -- like I said,
20 I live there -- you drive around every week is a
21 noticeable difference. And I flew down from Sacramento
22 about two months ago, and I could not believe, whole
23 hillsides. Some of those photos don't depict how
24 devastated some of the areas really are in the forest.

25 And so I don't think we're replanting yet. We're

1 still dealing with the initial stages of the devastation
2 and removing it before we start replanting. But I'm sure
3 that -- at least my hope is that most people will plant
4 tree or two.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you very
6 much.

7 Okay. We'll go to our second item now. And one
8 thing I did neglect to mention at the beginning of our
9 meeting is if you'd like to address the Board, the speaker
10 slips are on the back table. And please give them to Ms.
11 Waddell, and she will make sure that we know of your wish
12 to speak.

13 So at this time we're going to Item 28, the C&D.

14 Who's going to be giving this presentation?

15 BOARD MEMBER PAPARIAN: Madam Chair?

16 Madam Chair, over here.

17 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr.

18 Paparian. I didn't see your light.

19 BOARD MEMBER PAPARIAN: Oh, sorry.

20 I think I was going to give the P&E Committee
21 report at this time.

22 CHAIRPERSON MOULTON-PATTERSON: Oh, okay. Thank
23 you for the reminder.

24 BOARD MEMBER PAPARIAN: Yeah.

25 CHAIRPERSON MOULTON-PATTERSON: These lights

1 really do help me. Or otherwise my head feels like it's
2 on a swivel.

3 So thank you.

4 BOARD MEMBER PAPARIAN: At the P&E Committee
5 meeting we had seven items come up. We dealt with two
6 permit items yesterday that were placed on consent. We
7 also had three discussion items.

8 One was on the landfill operator training and
9 certification program. And the Committee supported the
10 staff recommendation on that. And the staff as a result
11 is going to develop regulations beginning an informal
12 rule-making process to require certification for on-site
13 landfill managers who are responsible for the day-to-day
14 operations at landfills.

15 We also discussed the long-term gas violation
16 policy. And the Committee directed the staff to proceed
17 with an option that would include development of
18 regulations on landfill gas, incorporating quite a few
19 concepts that have been discussed over the last few
20 months.

21 This is a somewhat timely item actually. There's
22 an interesting sidelight to landfill gas. I think the
23 members were distributed a copy of an Op-Ed piece from
24 last weekend's Sacramento Bee which suggested that the
25 Bark Beetle infestation is -- at least in part comes from

1 some of the global climate change that may be happening.

2 And one of the things that we haven't yet gotten in to at
3 the Waste Board is that landfill gas is, in fact, one of
4 the major contributors to the global climate change gases.

5 So it's something that we may want to explore as
6 this becomes an increasing issue for the state and country
7 and the world.

8 We also discussed the ADC regulations. And those
9 are going out for an additional 15-day comment period, and
10 hopefully will be back for review by the Board in October.

11 That leaves us then with the C&D item. I think,
12 Howard, you're going to get in to the C&D. I'll just say
13 that we didn't take an actual vote on the item. There is
14 a -- the biggest remaining issue is related to the term
15 "disposal." Mrs. Peace argued that we should go with the
16 staff recommendation keeping that term in. Mr. Jones
17 argued that he'd like to see a change in that. I think
18 they can both speak for themselves on that.

19 I was supportive of Mrs. Peace, but we didn't
20 take a vote, recognizing there was a split on that issue
21 and that we really ought to put it to the full Board for
22 the full Board to decide.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
24 Mr. Papanian, for your report.

25 Howard.

1 DEPUTY DIRECTOR LEVENSON: Good morning, Madam
2 Chair, and good morning, Board members. Howard Levenson
3 with Permitting and Enforcement.

4 Good morning. Howard Levenson with Permitting
5 and Enforcement.

6 Mr. Paparian characterized this item, Item 28, on
7 the proposed C&D waste and the inert debris disposal
8 regulations very succinctly.

9 We're down to a couple of major issues: One
10 regarding the term "disposal"; and one regarding
11 requirements for scales. And these have been discussed
12 during the last 15-day comment period and with
13 stakeholders in a late August meeting and discussed at the
14 Committee.

15 Mark de Bie will give a presentation on that.
16 But before we get in to the presentation, I just wanted to
17 note the time sensitive nature of these regulations. In
18 order for us to prepare the package for submittal to OAL,
19 for OAL to review it and approve it, and then for us to
20 finally promulgate it, in accordance with the statutory
21 requirement of January '04, we do need to move on these
22 regulations this month.

23 So I just wanted to put that forth to you for the
24 context in which we're discussing this.

25 With that I'll turn it over to Mr. de Bie.

1 (Thereupon an overhead presentation was
2 presented as follows.)

3 MR. de BIE: Thank you, Howard.

4 Mark de Bie with Permitting and Inspection. I'm
5 a stand-in for Allison Spreadborough who has been meeting
6 this effort on developing these regs over the last almost
7 year now. She's still in Ireland and enjoying her time.
8 She should be back tomorrow or the next day. So I have
9 the pleasure of presenting this item to you this morning.

10 --o0o--

11 MR. de BIE: As Howard indicated, this has a long
12 history. We have done a 45-day comment period and several
13 15-day comment periods. During that last 15-day comment
14 period, a number of alternatives -- or, excuse me -- a
15 number of issues and alternatives language for each issue
16 was noticed so that the commenters had an opportunity to
17 provide comments on the various alternatives. And then
18 depending on which alternative the Board chooses finally
19 to include in the final version of the regs, we would not
20 need to go out for another 15-day comment period, and be
21 able to meet the deadline that Howard indicated of first
22 of this next year.

23 --o0o--

24 MR. de BIE: Before I get in to the various
25 issues and alternatives, just real quickly, basically the

1 gist of what this package does is it classifies three
2 different kinds of activities relative to C&D and inert
3 debris:

4 It indicates that an activity that has final
5 deposition of C&D -- mix C&D material as well as Type B
6 inerts to land disposal activity would be required to
7 obtain a full solid waste facility permit.

8 An activity that places Type A material, the full
9 spectrum of Type A material into the ground in a manner
10 that is not designed for a final end use would be required
11 to obtain a registration permit.

12 And then, finally, an activity that places a
13 cleaner subset of Type A material to the ground in a
14 manner that is defined as an engineered fill, basically
15 working towards a final end use, could be regulated only
16 under a notification. It also includes the various state
17 minimum standards for operating and design of those
18 facilities.

19 So with that overview, basically we are left with
20 issues relative to the use of the term "disposal" and then
21 also the requirement for scales as part of the weight
22 records.

23 Issue 1 does deal with the term -- use of the
24 term "disposal" relative to inert debris engineered fills.
25 There were three alternatives that were noticed. The

1 first one retains the term "disposal." The second deletes
2 the term "disposal." The third deletes the term
3 "disposal," but adds in language to the definition of
4 inert debris engineered fills, that the fill operation is
5 not counted as diversion or disposal or given
6 jurisdiction. And that the same phrase also appears in
7 other parts of the reg relative to diversion and disposal.

8 --o0o--

9 MR. de BIE: Staff recommendation is to retain
10 the word "disposal," but to utilize the language in the
11 resolution for adoption of these regs that is intended to
12 spell out specifically how diversion issues, jurisdiction,
13 impact issues will be dealt with by the Board. And it's
14 my recollection that the Committee felt that the inclusion
15 of that language relative to diversion in the resolution
16 was appropriate.

17 --o0o--

18 MR. de BIE: Issue 2 deals with weight records
19 and the use of scales for that, again relative to inert
20 debris engineered fill only.

21 Alternative 1 indicates that scales should be
22 used at all sites. Alternative 2 indicates that scales
23 should be used, but there are some exceptions. And I'll
24 go through those in the next slide. And then Alternative
25 3 deletes the scale requirement relative to inert debris

1 engineered fills, but does retain the language that talks
2 about the need to report weight -- or have weight records
3 but allows conversion factors to be used for determining
4 those.

5 --o0o--

6 MR. de BIE: The exceptions in Alternative 2 is
7 that:

8 It would delay the implementation of the scale
9 requirement for a year for all inert debris engineered
10 fills;

11 Would allow rural cities or rural counties to opt
12 out of this requirement;

13 And then any operations that would cease
14 activities within three years of the affected date of the
15 regulations would not need to comply with the weight
16 record based on scale requirement.

17 --o0o--

18 MR. de BIE: Staff recommendation is go with
19 Alternative 2, which allows those various exclusions and
20 exceptions.

21 --o0o--

22 MR. de BIE: Real quickly, Issue 3 and 4 are very
23 similar to Issue 1, but -- or Issue 2 -- excuse me -- but
24 are relative to the other types of activities, the inert
25 debris Type A disposal facility and the CDI waste disposal

1 facility relative to the use of scales at those sites.

2 So basically we have four issues, 1, 2, 3, and 4.

3 The first two deal with engineered -- inert debris

4 engineered fill operations. That's a mouthfull. And then

5 Issue 3 and 4 deal with the other two types of sites

6 relative to scales.

7 --o0o--

8 MR. de BIE: Staff's recommendation for 3 and 4

9 is just to be consistent with the decision made for Issue

10 2. But certainly any decision on any of these issues can

11 be done independently and there's no overriding need to be

12 consistent.

13 --o0o--

14 MR. de BIE: And that's the end of staff's

15 presentation.

16 If you have any questions, we're available to

17 answer them.

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

19 DEPUTY DIRECTOR LEVENSON: Excuse me, Madam

20 Chair. If I could just add one more comment. And, that

21 is, to just refer you to the resolution language that Mark

22 referred to earlier. The revised resolution does have a

23 lengthy "whereas" phrase, as Mr. Paparian said it's maybe

24 the longest "whereas" phrase in history. But it does

25 speak to issues raised by stakeholders about the counting

1 of these materials if they come into sites that are --
2 that newly are permitted in the registration tier. And
3 that "whereas" provision outlines a process using
4 previously adopted Board policy that would allow
5 jurisdictions to deal with that issue. I just wanted to
6 note that.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
8 Levenson.

9 Mr. Jones.

10 BOARD MEMBER JONES: Thanks, Madam Chair. Just a
11 couple of questions.

12 Part of the discussion at the Committee
13 meeting -- and it was, you know, it was a 2 to 1 vote and
14 I was on the low end of that -- was -- and I'll just ask
15 it in a question -- an inert fill using Type A material,
16 that would be considered a fill, dropping the word
17 "disposal." Mr. de Bie, does that somehow prevent you or
18 LEAs from making sure that those materials are consistent
19 with the exemption and they could regulate?

20 MR. de BIE: I don't think it's a major factor in
21 that by including the word "disposal," it's clear in the
22 definition of insert-debris-engineered fills, clear what
23 kind of activity that is. Removing it, I think there's
24 other references in the regulation's statement of reasons
25 that indicate what kind of operation that is and why the

1 Board is regulating that under a notification. So it's
2 not a major consideration in terms of the ability of the
3 LEA or the Board to regulate that.

4 BOARD MEMBER JONES: And then my next question
5 deals with the issues our friend, Mr. Aprea, brought up at
6 the last minute dealing with the types of materials not
7 only going to these types of facilities but other
8 registration facilities. And registration facilities
9 clearly are different. There was some discussion that we
10 don't know that universe. I remember Senator Roberti a
11 long time ago asked that we do a study on just how many of
12 these sites really exist. And I'm not sure I ever saw
13 anything that really nailed down exactly how many of those
14 sites existed.

15 But I've heard anecdotally from some people that
16 with all of the CalTrans pits in southern California --
17 and there's hundreds of them, many hundreds of them --
18 they would be prime areas for these inert fills so they
19 can reclaim that land and put something on it.

20 Is there -- and I guess I'm going to address this
21 to Mr. Schiavo. These issues in southern California where
22 materials, especially from all the construction that was
23 going on of separated inert A-type materials, going to
24 this universe of facilities that we're not even sure
25 exists, is that something that can be dealt with in the

1 DRS reg package? Not a regulation, but at least an
2 understanding of just how big that universe is so that if
3 we had to do it -- get better information about it, we can
4 do it through this DRS exercise that we're in the middle
5 of?

6 DEPUTY DIRECTOR SCHIAVO: Yeah, we can go ahead
7 and make the attempt. We plan on bringing forward the
8 first version of the regs in November. So we can begin
9 that process.

10 BOARD MEMBER JONES: But through DRS we're
11 finding facilities?

12 DEPUTY DIRECTOR SCHIAVO: Right.

13 BOARD MEMBER JONES: This reg package is going to
14 create facilities that never existed.

15 DEPUTY DIRECTOR SCHIAVO: And we're going to have
16 to --

17 BOARD MEMBER JONES: And appropriately you've got
18 to find them through the DRS system. So is it -- I mean
19 that would give our Board more information somewhere down
20 the road about that type of material finding itself going
21 into engineered -- not engineered fills, but Type A or
22 Type B, so we'd have a better understanding of that
23 material, because clearly we don't know what the breadth
24 of that could be.

25 DEPUTY DIRECTOR SCHIAVO: No, we don't know. And

1 there'll always be challenges because of the nature of
2 them.

3 BOARD MEMBER JONES: But it would be something
4 that you guys --

5 DEPUTY DIRECTOR SCHIAVO: Yeah, we would have to
6 pursue --

7 BOARD MEMBER JONES: -- if the Board agreed, that
8 you could undertake. Because right now we're -- it's an
9 issue that came up that kind of -- is consistent with
10 everything we've ever done about C&D or inert sites.
11 There's always a new issue that comes up, and no matter
12 what year it is.

13 So this may be something that we could do to at
14 least get a handle on that issue. Because I think it's a
15 valid issue, but I don't think it's -- you know, I don't
16 think we're ready to give it an exemption, you know, just
17 point blank. We don't even know the size of it.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you very
19 much.

20 I think we'll go to the public speakers. We have
21 quite a few. I know many of you testified in Committee.
22 I would ask that you keep it to around three minutes. I'd
23 appreciate it.

24 And we'll start with Jason Gonsalves.

25 Good morning.

1 MR. GONSALVES: Good morning, Madam Chair and
2 members of the Board. My names is Jason Gonsalves,
3 representing the City of Irwindale. I did not testify at
4 the prior hearings. And I too am pinch hitting for the
5 City Manager, Steve Blancarte, who has been very involved
6 with your Board and your staff.

7 The City of Irwindale's main concern -- as you
8 know, the -- I'd call it the unique topography due to the
9 gravel mining that's taking place in Irwindale. Their
10 main concern is reclaiming the pits for, you know, part of
11 their economic development. And they feel that if you use
12 the term "disposal" rather than taking the term off the
13 table, as I understand it, the term "disposal" could lead
14 to the discouragement -- discourage those folks and the
15 availability of the material, which, you know, leads to
16 the successful reclamation of their pits. So they're
17 afraid of the stigma that may come with the term
18 "disposal" as well as any potential fees that may be
19 levied.

20 With that, I appreciate your consideration of
21 keeping that term off the table.

22 Thank you.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you very
24 much.

25 Ken Barker, Hanson Aggregates.

1 MR. BARKER: Good morning, Madam Chair and Board
2 members.

3 I'd like you all to picture two operations:

4 In one a hole is filled by just dumping broken
5 asphalt and concrete into it.

6 The second, the hole is filled. But with each
7 load it's inspected for toxic contamination. The rubble
8 is sized. The rubble is spread in lifts. The material is
9 compacted. And the compacted material is tested by an
10 engineer. In the second example we have constructed a
11 building pad.

12 I submit to you that it's unfair to call both
13 operations disposal.

14 We are in the business of creating engineered
15 fills that are going to be a place for future buildings
16 and parking lots. Creating an engineered fill with
17 asphalt and concrete rubble is a productive way to get
18 another use out of these materials. Describing it as
19 disposal will make it harder to obtain new CUP for mines
20 and it would make it harder to change existing permits.
21 Hanson, as a stakeholder, is asking you not to make this
22 task more difficult.

23 Secondly, by calling an engineered fill a
24 disposal operation you increase the likelihood that fees
25 or taxes will be leveled on what we do. This makes

1 engineered fills a less attractive alternative for
2 reclaiming land. Is this what the Board wants to do to
3 engineered fills?

4 On the issue of scales, it appears to me that the
5 reason we are being regulated at all is to make sure that
6 we accept nothing but clean asphalt and concrete. By
7 weighing the incoming loads, this does not help our
8 inspection program one bit. It just increases our cost
9 and does not improve the product.

10 Finally, we could be faced with the inconsistency
11 that at the same operation where we recycle and we fill --
12 create an engineered fill one time the load would be
13 weighed if it goes to the fill; if it goes to be recycled,
14 it would not be weighed. This is not consistent and
15 doesn't make much sense.

16 So we ask you to please consider using Option 3
17 on both the scale issue and on the wording of "disposal."

18 Thank you.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
20 Barker.

21 Tom Davis, Justice and Associates.

22 MR. DAVIS: Madam Chair and fellow Board members.
23 My name is Tom Davis with Justice and Associates. We're
24 an environmental consulting firm who mainly represents the
25 mining industry. I'm here specifically representing one

1 of our clients, Chandler Sand and Gravel, that operate a
2 fill operation on the PV Pitlands in the Los Angeles
3 Basin.

4 I want to direct my comments to the two issues.
5 I've testified before the Committee, and so I'll keep my
6 remarks brief.

7 The staff, the Board and the stakeholders have
8 worked very hard on carving out a special category for an
9 activity which is now being known as inert debris
10 engineered fill operations.

11 These operations will be operated, and are
12 currently being operated, through a calculated and
13 deliberate means. They are operated and will be operated
14 not as a haphazard disposal of material or waste.

15 We believe it is inappropriate to use the term
16 "disposal" or "disposed." We support that you use
17 replacement terms such as "fill."

18 What is being done at many of these locations,
19 these fill operations, are using material to build the
20 foundation for the next productive use for that site.
21 Using the terms "disposal" and "disposed" are
22 inappropriate and may mislead local agencies that it's
23 something other than a deliberate and calculated use of
24 material to build a foundation for a next productive use.

25 We are supportive of Alternative 3 for Issue No.

1 1.

2 Regarding the use of scales. I, in the past,
3 have pointed out to the Committee that there is a state
4 minimum standard referenced in the proposed Phase 2 regs.
5 Two important things in that standard:

6 One is it's requiring an accuracy of 10 percent
7 for the tonnage that will be reported for these type of
8 operations. You do not need the use of scales to come to
9 that type of accuracy.

10 Second, that standard allows for tonnage to be
11 derived through volume. Using scales and not allowing
12 tonnage to be derived by volume through a conversion
13 factor is inconsistent with this standard.

14 I've pointed out to the Committee also that the
15 cost of scales -- initially in the ongoing cost of scales
16 is not justified for this type of accuracy, especially in
17 the inert debris engineered fill operations, for the only
18 reason of an annual tonnage reporting.

19 Scales at many sites are not practical. Nowadays
20 they need electricity. A lot of sites don't have
21 electricity, believe it or not. And I'll point that out
22 in a second. Sites, because of size and shape, are not
23 practical for the use of scales and the cueing of trucks
24 to utilize those scales.

25 Staff has pointed out that in the regulations

1 that there's an alternative to using off-site scales.
2 Diverting truck traffic to off-site scales, such as public
3 scales, is not an environmentally sensitive alternative.
4 The additional truck traffic, truck congestion, emissions
5 from that additional mileage going to off-site scales is
6 not justified.

7 Frankly, there has been no good reason why scales
8 have been included as a requirement in these regulations.
9 There has been one reason given by the staff, and, that
10 is, to seek consistency with the Phase 1 regs. Well, as I
11 pointed out last week at the Committee meeting, there is a
12 good reason for having scales required in the Phase 1
13 regulations. And, that is, because the tier assignments
14 are based on tonnage. You do not have that same situation
15 in Phase 2.

16 Lastly I wanted to point out that this is not an
17 urban versus rural issue. Alternative 2 for issues 2, 3,
18 and 4 that the staff has proposed gives certain exemptions
19 for rural areas. This is not a rural versus urban issue.

20 I pointed out last week in siting for one of our
21 industrial users two sites in the Greater Los Angeles area
22 that you could not be any more urban than where these two
23 sites were found. Neither one of them had utilities. One
24 was 10 acres and one was 56 acres. One of those can be
25 used for an inert debris engineered fill operation.

1 Putting in a generator just to run scales in this
2 particular case is not environmentally justifiable. So,
3 consequently, we are supportive of Alternative 3 for Issue
4 2.

5 Thank you.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
7 Davis.

8 Mr. Chuck White, Waste Management, followed by
9 Mark Aprea.

10 MR. WHITE: Thank you, Madam Chair, members of
11 the Board. Chuck White representing Waste Management.

12 The Board staff has done an excellent job of
13 laying out the options -- remaining options before the
14 Board for your final determination.

15 Our comments are limited solely to that related
16 to engineered inert fills that are located in the
17 notification tier of the proposed regulations. We're not
18 commenting on any other types of operations.

19 With respect to the disposal issue, I just want
20 to again remind you that these kinds of engineered fills
21 are only the following types of materials: Uncontaminated
22 concrete, bricks, ceramics, clay products, cured asphalt,
23 rock and soil. Only these materials can be spread in
24 compacted lifts. And it must be certified by an engineer
25 and then a geologist.

1 The focus of your regulations is appropriately on
2 making sure that only these kinds of materials are allowed
3 to go into engineered fills. But once only these
4 materials go in and once they're compacted, really your
5 regulations don't propose to regulate them as a solid
6 waste fill as a landfill at all. There's no requirements
7 for monitoring closure, post-closure, financial assurance.
8 So for these reasons and others we do not believe that
9 these regulations should label in any way these types of
10 operations as disposal operations.

11 You've got three very clear options in front of
12 you:

13 You can either call them disposal, Option 1, as
14 the staff recommends.

15 You cannot call them disposal, which I think
16 would be a problem because by not calling them a disposal,
17 they might be considered to be diversion, which would be
18 contrary to recent legislation, the AB 2308 (Chavez) that
19 says, "Neither diversion nor disposal." It's simply off
20 the table.

21 And in fact that's exactly what your Option 3
22 provides, is that these activities would neither be
23 disposal nor would they be diversion. They'd be simply
24 taken off the table. And it's the option that's closest
25 to the recent legislation that's been passed in this area.

1 Why do we care if it's called disposal?

2 Well, number 1, there's no reason to call it
3 disposal. There's nothing in the regulations that hinges
4 on using the word "disposal." We believe the Board and
5 LEA's have adequate authority to regulate these activities
6 without having to call them disposal, and I believe your
7 staff would agree with that.

8 It's not consistent with previous legislation, as
9 I just recently mentioned. The Legislature's acted three
10 times in the past several years on this option. Granted,
11 they've given you complete latitude to act. But as far as
12 I can tell, there's not any reason that I've seen that's
13 apparent why you would want to act any differently than
14 the direction that's been provided by the Legislature in
15 this area, is that this area -- these kind of activities
16 should neither be diversion nor should they be disposal.

17 Thirdly, it puts a stigma on these clean fill
18 operations. The Department of Conservation wants to see
19 inert materials made available for these types of
20 reclamation projects. The stigma of disposal may cause
21 these materials to become less readily available.

22 I've spoken to Jason Marshall, who is with the
23 Legislative Affairs Office at the Department of
24 Conversation. I've spoken with Bill Armstrong, who's head
25 of the Office of Mine Reclamation even as late as this

1 morning. And while they're not prepared to comment --
2 come here and comment on these regulations, they'd feel
3 that, number one, that they -- I would be very concerned
4 if these regulations of the Board in any way would
5 discourage the availability of clean inert materials to be
6 made available to reclaim mine reclamation projects,
7 particularly in the City of Irwindale.

8 The Department of Conservation has been working
9 long and hard with the City of Irwindale to make sure that
10 a structure is imposed to provide adequate insurance,
11 adequate slope stability, to provide the availability of
12 materials to do a reasonable job of reclaiming these pits
13 within the City of Irwindale. And that I believe they
14 would be concerned if any of these regulations would
15 jeopardize that.

16 We're concerned that if you call it disposal it's
17 confusing and internally inconsistent. On one hand you're
18 saying you're not going to count it for AB 939 accounting,
19 you're not going to count it as disposal for the state
20 disposal fee purposes. But on the other hand you're still
21 going to call it disposal.

22 And it sets up the potential for inconsistent
23 approaches between state and local government, which is a
24 very big concern because -- frankly, we're involved in a
25 dispute right now with the City -- or the County of Los

1 Angeles, which are proposing that these kinds of
2 operations should be regulated as disposal sites and be
3 subject to the county fee.

4 Right now we've got a \$17 million amount that's
5 been charged by the county that they believe we should pay
6 in arrears for past acceptance of basically clean inert
7 materials, primarily rock and soil that's been used for
8 mine reclamation at our new waste facility in the City of
9 Irwindale. We thought we were doing a good job trying to
10 take this -- segregate this material, take only clean
11 materials and use it for reclaiming a property, to return
12 it to beneficial use, not as solid waste landfill but as a
13 mine reclamation operation. And I guess all deeds do not
14 go unpunished. So it's a problem.

15 And when we think that these regulations to the
16 extent they call them disposal, while, you know, it's not
17 going to be definitive one way or the other, I think it
18 does hinge in part -- the county's argument does hinge in
19 part on how the State regulates these activities as
20 disposal or as not disposal. And so I think it's an
21 important factor -- maybe not the only factor, but it's an
22 important factor, that it needs to be taken in to
23 consideration.

24 The bottom line is, you know, do not use the
25 terms "disposal" or "diversion" when referring to these

1 inert fills. It's consistent with past legislation. You
2 have the freedom to act. You can call it disposal, you
3 can call it diversion if you wish. We would just urge you
4 in the lack of any overriding reason to do so that you
5 follow with what the Legislature has done in the past
6 three times they've addressed this issue.

7 One final comment on scales. We currently use
8 scales at our New Waste facility. We have no problems
9 with complying with any of the options that are before
10 you. We even comply with the requirement to use scales
11 immediately. We understand that that might impose a
12 burden on other folks that don't have scales in place. So
13 we feel that Option 2 is certainly something we could
14 meet. Provide a little more flexibility for rural
15 facilities that may not be able to put scales in, and give
16 it a little bit of lead time to allow scales to be put in,
17 if necessary.

18 But, like I say, we do have scales. We use them
19 to keep track of the materials. We operate not only a
20 mine reclamation operation at our New Waste facility, but
21 to the extent that markets are there for the materials
22 outside of the pit, we will bring materials back out of
23 the pit and use them for road bed or construction
24 materials elsewhere in the L.A. basin if there is a market
25 for that material. And we use the scales to keep track of

1 where all these materials do end up. So, like I say, we
2 would have no objection to the scales.

3 So in parting, again I urge you don't call this
4 disposal, don't call it diversion. Take it off the table,
5 as we believe this issue has been addressed by the
6 Legislature in the past. And without any overriding
7 reason to do otherwise, we would strongly request and urge
8 the Board to do likewise.

9 Thank you.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
11 White.

12 Mr. Aprea representing Republic Services.

13 MR. APREA: Madam Chair, members of the Board.

14 First of all -- Mark Aprea representing Republic
15 Services.

16 First I want to thank the Chair and her staff for
17 allowing us this easel. I'm going to just step aside for
18 a minute. So I think that using this illustration will
19 keep my testimony within three minutes.

20 What I'm going to draw here is a likeness to the
21 State of California, and use this as an example of what
22 we're talking about here.

23 If we can look at this, originally AB 2308 was
24 introduced and enacted to address the issue of clean inert
25 material going to facilities that previously were not

1 permitted. But -- I've got a fan club here. But that
2 because of local circumstances, now we're required to have
3 a full solid waste facilities permit.

4 As a result of that, three facilities in the San
5 Gabriel basin were required not only to have a solid waste
6 facilities permit, but the consequence of that was that
7 these facilities now had to charge fees in terms of the
8 Integrated Waste Management account and count the material
9 coming into these facilities for purposes of reporting to
10 the disposal reporting system and counting that against
11 the local jurisdiction's disposal and diversion numbers.

12 Under these regs we now have two -- in essence
13 two types of facilities that we're not dealing with. One,
14 we're dealing with a bunch of notification tiers. Now,
15 staff in good faith estimates these -- all of these
16 facilities throughout the state to number somewhere in the
17 order of 50 -- that's 5-0.

18 We understand -- and again this is anecdotal,
19 this is not empirical data -- that whether it's the
20 CalTrans pits that Mr. Jones referred to, I understand
21 from a conversation with Kit Cole that the Los Angeles LEA
22 estimates that there are a thousand of these facilities,
23 both the notification tier as well as the registration
24 facilities throughout the County of Los Angeles. And
25 talking to folks that are more familiar than I am with

1 these kinds of facilities up and down the state, that
2 we're talking in the four figures plus -- certainly not in
3 the high four figures, but we're talking well over a
4 thousand facilities.

5 So we've got these notification tier facilities,
6 but we've also got a number of facilities which we believe
7 are registration tier facilities throughout the state.

8 Now, the reason I'm making this illustration is
9 is that we really don't know the number of facilities that
10 we are now talking about in terms of this regulation
11 package, what it's going to encompass.

12 It's somewhere north of 50. How many, we don't
13 know. And whether we will capture them all within the
14 first year of this reg package, we don't know that either.

15 But what we do know is is that we need to avoid
16 the unintended consequences of inert material being placed
17 at one of these facilities and counting against local
18 jurisdictions. Otherwise what we will find is that we'll
19 find ourselves in the same circumstances that led to AB
20 2308.

21 We have seen the Legislature consistently direct
22 the Board to look at this issue, not for purposes of
23 disposal, but rather to look at this as neither disposal
24 or diversion. So I want to first support the position
25 that Mr. White has discussed. But I also want you to take

1 a look at this issue of what are we -- what are the
2 consequences of all of these green facilities that are up
3 and down the state and representing the registration --
4 the registration tier and what are the consequences, what
5 is the tonnage that's going in there, and what are the
6 number of these facilities?

7 Because ultimately to the extent that this Type A
8 material goes into these facilities, it goes in there and
9 it's not being mixed with other kinds of waste, with other
10 kinds of C&D material, and certainly not with MSW, that
11 this material will ultimately end up counting against
12 local jurisdictions. And local jurisdictions, generally
13 speaking, don't have control over this waste stream. They
14 are either the product of CalTrans projects, that are
15 state projects, or as we're going to begin to see here
16 shortly, billions of dollars of money that's going to be
17 spent on the construction and remodeling of schools
18 throughout. And I want to point out that we have a major
19 bond measure coming up on the March ballot that will also
20 allow for additional bond funding for schools.

21 Now, all of these are good infrastructure
22 projects. But the result of this material being generated
23 and going to not only the notification tier or the
24 engineered fills, but also to C&D disposal sites whereby
25 they are only Type A material, you're looking at a large

1 amount of material that's going to ultimately accrue.

2 Now, this Board has two choices: One is to send
3 these regs out through an emergency process for another
4 15-day comment period. Or, as Mr. Jones suggested, that
5 we address this issue in the disposal reporting regs that
6 are currently being developed.

7 And I would submit that while we would much
8 prefer to have this dealt with now, that I think it's
9 important that we understand how many facilities are we
10 talking about, number 1 --

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Aprea, you've
12 been going almost six minutes now.

13 MR. APREA: Okay. I'll conclude.

14 Number one, that we look at how many facilities
15 there are; 2) what is the tonnage? And that in fact if
16 this tonnage is significant, that we look for a way to
17 ensure that this material does not count against disposal.

18 Thank you.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
20 Aprea.

21 Mr. Paparian.

22 BOARD MEMBER PAPARIAN: Just quickly.

23 We don't always agree, but I do appreciate you
24 bringing the visual aid.

25 I think one of the reasons Mr. White is so

1 concerned up here is that your first three dots appear
2 geographically actually closer to Kettleman Hills than
3 where they actually are in Los Angeles. But it's probably
4 just speed of presentation. But I always appreciate a
5 little extra effort there, regardless of where I stand on
6 the issue.

7 Thank you.

8 MR. APREA: Thank you very much.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you.

10 We'll have Mark Murray, followed by our last
11 speaker, Larry Sweetser.

12 Mark Murray representing Californians Against
13 Waste.

14 MR. MURRAY: Madam Chair, Board members, Mark
15 Murray with Californians Against Waste.

16 This issue seems a lot simpler when I'm sitting
17 in my office and thinking about it and talking to my staff
18 about it. It seems to me that there are two objectives
19 here:

20 One is we want to make sure that if all of us
21 were standing, looking at a pile of stuff, pile of inert
22 material that's going into a hole in the ground, I think
23 that we could probably make an assessment as to whether it
24 was being disposed or whether it was a mine reclamation or
25 engineered fill that was serving some beneficial purpose.

1 And so we want to be able to figure out a way in
2 these regulations to make a distinction between which of
3 those two activities is which and treat them from a
4 diversion standpoint accordingly.

5 Secondly, because we do have big trucks with lots
6 of mixed stuff going into them, I want to make sure that
7 this Board has the maximum authority to regulate those
8 entities to make sure that it's only clean inert material
9 that's going into that.

10 To me, having that concept of making those two --
11 being able to do those things seems pretty simple. And
12 it's just been very complicated to try and work that out
13 within these regulations.

14 And, again, I think your staff has done a
15 terrific job. I think that we're now -- because of this
16 kind of time crunch, we're maybe not as able to be as
17 creative in terms of crafting these regulations as we
18 might like. And maybe we do need to have the Board seek
19 some greater authority from the Legislature to regulate
20 activities that go beyond disposal. Maybe that's part of
21 the problem here.

22 But having said that, in going through this,
23 again our primary concern was ensuring the proper
24 characterization of these materials in terms of the
25 disposal reporting system. And it seems like that's

1 intertwined with this issue of disposal. I think that Mr.
2 Jones' suggestion in having Mr. Schiavo here I think is a
3 good one, because maybe that's the place that we can take
4 care of that part of the issue.

5 We recognize and, frankly, for several years
6 now -- going back to the Chesbro legislation, we've
7 recognized the benefit of these mind reclamation sites and
8 encouraging material that fills those sites. There's
9 environmental benefits associated with the filling of
10 those sites. There's public health benefits associated
11 with that. And we have long recognized that that activity
12 should not count as disposal. That activity should not be
13 paying the tipping fee surcharge to the State of
14 California.

15 With regard to the limited options that we now
16 are left with between these -- in terms of the regulation
17 package, we recommended language that was from the Chavez
18 legislation that said this activity at these mine
19 reclamation sites is neither disposal nor diversion. That
20 language is in Option 3. We really like that language.
21 At the same time, we have spoken in favor of Option 1. We
22 can live with Option 1. I think that Option 3 creates
23 some greater clarity with regard to what was our primary
24 issue, which was regard to diversion or disposal for this
25 activity.

1 At the same time, I appreciate -- I don't have a
2 great deal of expertise here. I've just listened to your
3 staff, and your staff is very persuasive in saying that
4 they believe that they need this "disposal" term to
5 maximize their regulatory authority. And we want to make
6 sure that we don't do anything to limit the Board's
7 regulatory authority.

8 If the Board was to go with Option 3, we would be
9 prepared to go to the Legislature and seek greater
10 authority for the Board to regulate activities at these
11 sites even if the term "disposal" is removed from it. So
12 if you're faced with that dilemma of wanting to make sure
13 you still have that authority, but you're feeling like
14 "disposal" is the linchpin of that, I think that -- you
15 know, we would certainly support going to the Legislature
16 and seeking authority to expand the Board's authority so
17 that you can still basically track and regulate the
18 activity that's happening in these facilities even without
19 that term "disposal."

20 So I'm sorry I can't be clearer. We can live
21 with Option 1. We can live with Option 3. I think that
22 there is some greater clarity in Option 3. And I don't
23 envy your decision on this.

24 Thank you.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

1 Murray.

2 Mr. Jones.

3 BOARD MEMBER JONES: Thanks. Just real quick.

4 Mr. Murray, I don't think you got in at the
5 beginning of this. I don't -- I'm not sure. I don't keep
6 a roll. But I did ask our staff, point blank, what you
7 just brought up, "Do you feel like you have the authority
8 if the term 'disposal' is not in it?" And Mr. de Bie
9 thought that there was plenty within the statement of
10 reasons and everything else -- I don't want to put words
11 in his mouth -- that they in fact can regulate without the
12 term "disposal."

13 MR. MURRAY: That's very helpful to hear that. I
14 did have a similar conversation with him. I don't think
15 he was as clear with me. And maybe it's an evolving
16 position. And I think that that's helpful. It gives
17 greater comfort from my perspective with regard to the
18 issues associated with concerns that we had with regard to
19 Option 3. So that gives us greater comfort with regard to
20 Option 3.

21 BOARD MEMBER JONES: And I just want to make
22 sure.

23 I characterized that accurately, Mr. de Bie?

24 MR. de BIE: Yes, you did. And it's not an
25 evolving position. I think when I spoke with Mr. Murray I

1 said that, you know, keeping the term in -- as I indicated
2 to you, Mr. Jones, keeping the term in makes it crystal
3 clear. Taking it out, we still have additional references
4 that indicate our authority and reason for regulating it.

5 And I think it's fairly similar to what I
6 mentioned to you, Mr. Murray.

7 BOARD MEMBER JONES: Thanks.

8 MR. MURRAY: Thanks a lot.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
10 Murray.

11 We have Larry Sweetser and then we have another
12 speaker slip. The last speaker, I believe, is Shari
13 Afshari. I'm not sure if I pronounced your name right.

14 Anyway, Mr. Sweetser is representing rural
15 counties.

16 MR. SWEETSER: Yes, Larry Sweetser on behalf of
17 the Rural Counties Environmental Services Joint Powers
18 Authority.

19 I'd really like to thank staff for their efforts
20 in addressing our concern, especially Mark de Bie. He's
21 done an excellent job filling in for Allison while she's
22 gone.

23 (Laughter.)

24 MR. SWEETSER: On behalf of the rural counties we
25 do support the option for excluding scales in rural areas.

1 That does remove a major road block to implementing C&D
2 facilities in our rural areas. And it addresses concerns
3 particularly related to cost and accuracy of scales; and
4 even multiple scales, because in some cases in order to
5 meet the accuracy requirement you'd have to have two
6 scales, one to weigh the large dump trucks, one to weigh
7 the passenger cars coming into the sites.

8 It also addresses the concern about the power
9 issue. Many rural sites do not have access to utilities.
10 And scales would be a big problem in those areas.

11 So we do recommend that option. And thank you
12 very much.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
14 Sweetser.

15 Shari Afshari, County of Los Angeles DPW.

16 MS. AFSHARI: Good morning, Madam Chair, Board
17 members. For the record my name is Shari Afshari, and I'm
18 representing the County of Los Angeles Department of
19 Public Works.

20 Before I get into the subject matter, I'd like to
21 thank all the Board staff who have been involved in these
22 regulations. We truly feel that the staff has listened to
23 our concerns that we have expressed throughout the process
24 and have been very responsive to those concerns.

25 One, many people have worked on these regulations

1 and I would like to thank them. I'd especially like to
2 note Allison and Lorraine who made a strong effort in
3 working with us and keeping the lines of communication
4 open.

5 We have had a few concerns about the term
6 "disposal," the placement of various public works
7 activities in to the regulatory tiers, and also the
8 potential of the impact that these regulations might have
9 on cities' and counties' diversion rates. The staff has
10 done a good job addressing the public works activities by
11 putting those as exemptions. Also with putting with
12 developing the inert debris engineering fill operation
13 classifications. That has taken care of lots of
14 inconsistencies that we have had in the past as part of
15 the current policies.

16 As to the term "disposal," we recognize that the
17 Waste Board is facing a dilemma with this because from
18 what we understood throughout the workshops we had with
19 the stakeholders, for the standards to be developed for
20 handling of solid waste and disposal, these activities
21 have to be considered disposal in order to be regulated.
22 At least this is the way that we can read the Public
23 Resources Code. And we believe that that basically is the
24 process that ultimately is putting those materials down
25 into those facilities.

1 Board staff have also responded to the concern
2 that we have had with the impact that these regulations
3 might have on diversion rates. And by considering that
4 the facilities that might come up that does not exist in
5 the jurisdictions today, that might fall in to the
6 regulatory or full permit. And they have put provisions
7 in that that can be handled and that addressed those
8 issues.

9 We overall believe that everything that has been
10 our concern has been addressed and we support the
11 recommendations that the staff have made and we believe
12 that's a good proposal from the staff.

13 And thank you for your time.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you very
15 much for your comments.

16 That concludes our speakers.

17 Board, comments?

18 Ms. Peace.

19 BOARD MEMBER PEACE: Okay. First I just want to
20 say I do not take this issue on disposal lightly. I've
21 thought about it a lot, and a lot of sleepless nights over
22 it.

23 First of all, I'd like to say AB 2308 was just a
24 temporary measure to provide some clarity until the Board
25 decides the right way to treat these sites. It was not a

1 direction to the Board on how to make these regulations.

2 I realize that Waste Management is in an ongoing
3 dispute with L.A. County regarding new waste payment of
4 the L.A. County solid waste management fee. And I realize
5 it's quite sizable. They claim that the applicability of
6 this fee hinges in large part on whether the inert debris
7 engineered fill operations is called disposal or not. I
8 think if L.A. County wants to collect a fee, they will
9 collect a fee whether we decide to call it disposal or
10 not.

11 This issue is with L.A. County. It's not with
12 the Board. And once these regulations are passed, Waste
13 Management should be able to relinquish New Waste's full
14 solid waste permit and get a notification permit.

15 To the word "disposal," why does every --
16 basically why do we need to call it disposal if it has
17 this negative connotation? And I guess I want to -- I
18 guess I don't understand why it has such a negative
19 connotation.

20 One, disposal in the dictionary means to put in a
21 suitable place. That is what is happening here.

22 In statute -- in our own statute the word
23 "disposal" means final disposition of solid waste onto
24 land. That is exactly what is happening here.

25 We heard from Mr. Aprea who believes that any

1 clean inert material should not be called disposal if it
2 went to an engineered fill. But he also believes that the
3 stuff should not be called disposal even if it went to a
4 Type A inert disposal facility.

5 So that really raises some questions in my mind.
6 I really worry about the unintended consequences of
7 removing the word "disposal."

8 And, finally, our staff recommends keeping the
9 word "disposal." They say deleting the word brings no
10 benefit to the CIWMB. It muddies rather than clarifies
11 the proposed regulations and creates potential problems
12 that we may have to deal with in the future.

13 I'm just here to say we have a very experienced
14 and capable staff, and I think that we should take the
15 recommendation. So that's my position.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
17 Peace.

18 Any other speakers at this time?

19 Mr. Paparian.

20 BOARD MEMBER PAPARIAN: Mrs. Peace said it better
21 than I could. And I agree with the position that she
22 articulated.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. And --
24 well, I am going to -- I'm going to call on Mr. Jones.
25 But I would like to take this in sections. But let's go

1 with all the Board comments first.

2 Mr. Jones.

3 BOARD MEMBER JONES: Madam Chair, just a couple
4 of things.

5 I can appreciate how people labor over things.
6 But I think if you look across the street, the City of
7 Sacramento is building an addition onto their city hall.
8 They've put piles into the ground to stabilize what ends
9 up being built there. Everything that goes to fill that
10 site is going to be called a fill activity. It will be an
11 engineered fill. Every road we drive on is an engineered
12 fill. We're talking about dirt, rock, and asphalt here.

13 And our staff has made it clear, and I think -- I
14 think it absolutely coincides with a transfer station. We
15 look at a recycling facility as not being in our
16 regulations. But we still have the ability to go in and
17 make sure that that recycling facility is operating to a
18 standard so that it doesn't lose its exemptions and fall
19 in to a transfer station. It's very clear in law that we
20 can do that. The same parallel I think is true when we
21 talk about an engineered fill.

22 What we're doing here is adding more work and
23 putting a connotation on something that doesn't make a
24 whole lot of sense. I mean we're talking about a very
25 specific waste stream.

1 So I had no problem with the Committee's
2 recommendation and staff's recommendation on Issues 3 and
3 4. I mean I have no problem with staying with the
4 Committee on that. But I do think that on Issue 1,
5 Alternative 3 is the appropriate way to treat it.

6 And I also think on Issue 2 that Alternative 3,
7 to require a scale when you're not going to count this
8 stuff one way or another is just more government
9 requirements on something that has no benefit.

10 I do think there's benefits on the other types of
11 facilities. But an engineered fill is an engineered fill
12 and there's going to be a good outcome at the end of the
13 day.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
15 Jones.

16 Mr. Medina.

17 VICE CHAIRPERSON MEDINA: Thank you, Madam Chair.

18 And I've kept an open mind in regard to this
19 particular matter. However, based on testimony today and
20 on the materials that I have read, including our own legal
21 opinion, I'm in support of Option 3. I read the Chavez
22 bill very carefully. And I think that -- you know, I
23 support the statements by Mr. Murray from Californians
24 Against Waste. I think also that there can be unintended
25 consequences. Whether the word "disposal" carries

1 connotation or not, in some instances I can see where
2 communities would be concerned if inert debris were to be
3 placed in those communities and labeled disposal.

4 And, again, I feel that whether we retain
5 "disposal" or not, that our Board -- with the broad
6 authority that we have we will retain authority in regard
7 to this matter.

8 And, finally, a disclaimer in regard to the
9 CalTrans borrow pits. During my tenure at CalTrans, to my
10 knowledge, we did not do any of these borrow pits. I do
11 know having traveled around the state with our engineers,
12 that if you notice on the state highways, you will see an
13 underpass and then an overpass. What they do, the
14 CalTrans engineers have made it a practice of first
15 excavating the underpass and using that material to
16 construct the overpass.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Any other comments at this time?

19 Okay. First of all, I'd like to ask the Board if
20 we have consensus to address the concerns for counting
21 disposal in the reg tier as part of the disposal reporting
22 system.

23 BOARD MEMBER JONES: Say that again.

24 CHAIRPERSON MOULTON-PATTERSON: I thought that
25 that was what you suggested.

1 BOARD MEMBER JONES: I just didn't hear.

2 CHAIRPERSON MOULTON-PATTERSON: Well, I hope I'm
3 capturing what you had said.

4 Do we have consensus to address the concerns for
5 counting disposal in the reg tier as part of the disposal
6 reporting system? That was an issue -- yeah, I mean I
7 wanted to go there first.

8 Any problems with that?

9 Okay. So that's something we'd want to do.

10 Mr. Levenson.

11 DEPUTY DIRECTOR LEVENSON: Just for
12 clarification, Madam Chair.

13 If the Board adopts that direction to address
14 that issue in the DRS regs, would you still retain the
15 "whereas" phrase in the second resolution which address
16 that issue and establishes some direction along that
17 regard?

18 BOARD MEMBER JONES: Yeah.

19 DEPUTY DIRECTOR LEVENSON: Because that is the
20 resolution that we crafted in response to Mr. Aprea's
21 comments that he raised at the August workshop.

22 CHAIRPERSON MOULTON-PATTERSON: And how does --
23 does that put us in a bad position, staff? I mean what's
24 your opinion?

25 DEPUTY DIRECTOR LEVENSON: No, I talked to Mr.

1 Schiavo. And we think that that provides direction in
2 terms of how to proceed with the --

3 CHAIRPERSON MOULTON-PATTERSON: Okay. So you're
4 okay -- staff is okay with that?

5 DEPUTY DIRECTOR LEVENSON: Yeah.

6 CHAIRPERSON MOULTON-PATTERSON: Okay, good. Yes.
7 Okay. Now I'd like to go and get a motion on
8 scales. Anyone want to jump out there on -- let's do that
9 one first.

10 BOARD MEMBER JONES: Madam Chair?

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

12 BOARD MEMBER JONES: On the issue -- I think
13 Issue 2 for scales at engineered fills, I would propose
14 Alternative 3.

15 But on the issue of scales at C&D sites and other
16 sites, I think the -- what was the option that -- I think
17 it was Option 2 for the other ones instead, it was
18 optional depending upon if it's rural or not. So that
19 would be -- wasn't that 3 and 4?

20 DEPUTY DIRECTOR LEVENSON: Issues 3 and 4 the
21 Committee was --

22 BOARD MEMBER JONES: Dealt with C&D sites and --
23 it dealt with C&D sites, right --

24 DEPUTY DIRECTOR LEVENSON: Yes.

25 BOARD MEMBER JONES: -- and the others.

1 And Option 2 gave some leeway in regional areas.

2 Okay.

3 So, Madam Chair, for Issues 3 and 4 I think we
4 should do Option 2. For issue 2 I think we should do
5 Option 3, which is scales at C&Ds with a little latitude
6 and no scales at engineered fills.

7 CHAIRPERSON MOULTON-PATTERSON: Is that the staff
8 recommendation?

9 I mean you guys are the experts here. I'd like
10 to know what you're recommending before I vote.

11 MR. de BIE: In terms of from a health and safety
12 point of view, which is the focus of these regs from the
13 Committee and the Enforcement Division, the scale
14 requirement has no real value in terms of additional
15 protection. It was included again, as testimony has
16 indicated, to be consistent with Phase 1 as well as to be
17 responsive to what we've heard from various Board Members
18 over time about trying to get better numbers on this
19 material that's out there, the inert material.

20 Staff for those reasons have been recommending
21 that Alternative 2 for Issue 1 as part of our
22 recommendation. And then relative to 3 and 4 is just to
23 be consistent with whatever you decide on Issue 2.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Any other
25 Board comments on the scales issue?

1 Ms. Peace.

2 BOARD MEMBER PEACE: I don't think scales should
3 be included just to be consistent with Phase 1 if it
4 doesn't make sense. I mean, as Mr. White said, that they
5 weigh all the stuff anyway on a scale, so that sometimes
6 it comes in and then it goes out. And they ultimately
7 want to know how much is going in and out.

8 But how important is that? I mean can we do that
9 without scales? I mean how important is that to have, to
10 be able to track it coming in and out? Can we do that
11 with just conversion factors? I mean how important is it?
12 And how important is it do we need to be able to even
13 track this engineered fill material?

14 MR. de BIE: Certainly scales give you the most
15 precise records that you could have.

16 It's staff's observation that this type of
17 material, this smaller subset of Type A, is fairly
18 consistent in terms of type of material and, therefore,
19 would be fairly consistent in terms of utilizing a
20 conversion factor. Whereas, with mixed C&D, you could
21 have big swings between loads and that. But when you're
22 dealing with concrete and asphalt and bricks, it's fairly
23 consistent in terms of what it would convert in to in
24 terms of tonnage.

25 So I think you would get better than 10 percent

1 in terms of accuracy using a conversion factor.

2 Relative to, you know, having the benefit of
3 scales for keeping track of material for other reasons, or
4 diversion issues, those sorts of things, you know, I think
5 Pat might have some perspective on that. But I think for
6 just operationally scales or no scales in an inert debris
7 facility, the margin of error is not that great as opposed
8 to other kinds of sites like MSW or C&D. So you could
9 still get fairly good numbers. It's just how good do you
10 want those numbers to be.

11 BOARD MEMBER PEACE: Okay. Thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

13 BOARD MEMBER PAPARIAN: Just to understand it.

14 Under the proposal that Mr. Jones is suggesting,
15 we would get information about the weight based on a
16 conversion factor at those facilities?

17 MR. de BIE: Yes, that would -- that requirement
18 would remain for inert debris engineered fills. It would
19 still need to report based on a conversion factor.

20 BOARD MEMBER PAPARIAN: And you're comfortable
21 with that? The staff is comfortable with that?

22 MR. de BIE: In terms of public health and safety
23 issues, yes.

24 CHAIRPERSON MOULTON-PATTERSON: And this is
25 sensitive to the rural concerns that were brought up?

1 MR. de BIE: Relative to Issue 3 and 4 in the
2 other types of sites Alternative 2 would include
3 flexibility for the rural sites. With issue 2, just
4 removing scales, which is the proposal, certainly that
5 benefits rurals as well as anyone else.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. So that's
7 your motion, Mr. Jones?

8 BOARD MEMBER PEACE: Okay. Again, for engineered
9 inert debris fills, Alternative 3 would be no scales?

10 BOARD MEMBER JONES: Right.

11 BOARD MEMBER PEACE: Then for the Type A and the
12 other two types of facilities it would be Alternative 2?

13 BOARD MEMBER JONES: Yes, ma'am.

14 BOARD MEMBER PEACE: Okay. I'll second that.

15 CHAIRPERSON MOULTON-PATTERSON: We have a motion
16 by Mr. Jones as stated, seconded by Ms. Peace.

17 Please call the roll.

18 DEPUTY DIRECTOR LEVENSON: I believe that we need
19 to adopt Resolution 2003-448, which is the Negative
20 Declaration first before we do the motion on the
21 regulations. Is that correct, counsel?

22 ACTING CHIEF COUNSEL BLEDSOE: I'm sorry, Madam
23 Chair. I didn't hear the question.

24 DEPUTY DIRECTOR LEVENSON: Well, there's two
25 resolutions on package one. There's the adoption of the

1 Negative Declaration and then the adoption of the --

2 CHAIRPERSON MOULTON-PATTERSON: And that doesn't
3 mix the scales and the other one? I don't want to mix
4 these.

5 ACTING CHIEF COUNSEL BLEDSOE: Right. The Chair
6 hasn't gotten to the other issue yet, which is -- so we
7 can just hold off --

8 DEPUTY DIRECTOR LEVENSON: I'm sorry. That was
9 not in the form of a -- my mistake.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. So we
11 don't need to take a vote on the scales issue? Because I
12 mean there might be a difference of opinion.

13 ACTING CHIEF COUNSEL BLEDSOE: Well, Madam Chair,
14 I'd suggest --

15 CHAIRPERSON MOULTON-PATTERSON: I mean I want to
16 split this, is what I'm trying to do, and I need some help
17 here.

18 ACTING CHIEF COUNSEL BLEDSOE: Right. I think
19 proceeding with the vote as you're going along will let
20 everybody know what the Board's decision on the scales
21 issue is.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. So Mr.
23 Jones made a motion as stated. Ms. Peace seconded it.

24 Please call the roll.

25 SECRETARY WADDELL: Jones?

1 BOARD MEMBER JONES: Aye.

2 SECRETARY WADDELL: Medina?

3 VICE CHAIRPERSON MEDINA: Aye.

4 SECRETARY WADDELL: Paparian?

5 BOARD MEMBER PAPARIAN: Aye.

6 SECRETARY WADDELL: Peace?

7 BOARD MEMBER PEACE: Aye.

8 SECRETARY WADDELL: Washington?

9 BOARD MEMBER WASHINGTON: Aye.

10 SECRETARY WADDELL: Moulton-Patterson?

11 CHAIRPERSON MOULTON-PATTERSON: Aye.

12 And we're going to take a 10-minute break for our
13 court reporter right now.

14 (Thereupon a recess was taken.)

15 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
16 the meeting back to order please.

17 Mr. Jones, Do you have any ex partes?

18 BOARD MEMBER JONES: Mr. Cupps.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.

20 Ms. Peace.

21 BOARD MEMBER PEACE: I have none.

22 CHAIRPERSON MOULTON-PATTERSON: I have none.

23 Mr. Medina.

24 VICE CHAIRPERSON MEDINA: None to report.

25 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

1 BOARD MEMBER PAPARIAN: Chuck White and Mark
2 Aprea. Mark Aprea, who refused to give me the map to
3 enter in to the record. It's gone.

4 (Laughter.)

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

6 BOARD MEMBER WASHINGTON: Yeah, Chuck White and
7 Mark Aprea.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

9 Okay. We're going to proceed.

10 As I understand what we've done is we got that
11 one issue out of the way on the disposal reporting system.
12 We have decided the scales issue. And now we're going to
13 the hard issue.

14 And this is on the disposal issue, whether to
15 leave the word "disposal" in or not. And I will entertain
16 a motion.

17 Mr. Jones.

18 BOARD MEMBER JONES: Thank you, Madam Chair.

19 And I know it's a tough issue. But I really do
20 think that an engineered fill activity is just that, it's
21 an engineered fill activity. And I think the other things
22 are disposal activity. And for that reason I would
23 recommend that on Issue 1 we treat it as Alternative 3.

24 VICE CHAIRPERSON MEDINA: Second.

25 CHAIRPERSON MOULTON-PATTERSON: And as far as the

1 resolution, is that 2003-448?

2 DEPUTY DIRECTOR LEVENSON: Madam Chair, that
3 would be part of Resolution 449 where you actually adopt
4 the regulations. All of the decisions that you've made
5 about these alternatives would be incorporated by
6 reference when we submit the package.

7 CHAIRPERSON MOULTON-PATTERSON: Okay.

8 BOARD MEMBER PEACE: Okay. Back to the
9 resolution. I have a question of Legal.

10 On the "whereas" that we put in there, "whereas
11 it is the intent of the Board in adopting these
12 regulations that consistent with the provisions of AB
13 2308" -- I mean is that really necessary? It seems to me
14 that leaving that in there gives the legislation some
15 intent that it might not have had. Why do we need that in
16 there?

17 ACTING CHIEF COUNSEL BLEDSOE: Ms. Peace, my view
18 is that that language could be deleted, that it doesn't
19 interfere with the meaning of the resolution.

20 There's some thought on the part of staff that it
21 actually helps clarify, you know, that these regulations
22 are consistent with AB 2308.

23 Elliot, would you like to comment on this?

24 Elliot actually drafted this language with Pat
25 and the folks in planning.

1 Of course I may not have made his job very easy.

2 STAFF COUNSEL BLOCK: Elliot Block for Legal
3 Office.

4 You know, I think some of the confusion -- this
5 came up, was it the Committee last week or -- is that the
6 language potentially I guess can be read two ways. We
7 drafted that language meaning that it's consistent with
8 the requirements of 2308 that we adopt regs to deal
9 with --

10 BOARD MEMBER PEACE: But it already says that
11 here, where it says, you know, "Whereas, 2308 requires the
12 Board to adopt and file regulations with the Secretary of
13 State," which it did.

14 I don't know if we need it down here. I just
15 don't want to give that legislation any intent that it
16 might not have had. I mean I just --

17 STAFF COUNSEL BLOCK: Yeah, as Michael had said,
18 it's -- you could drop that out. There is other language
19 in the resolution. We thought it -- by putting it in the
20 same paragraph, it just connected those two thoughts that
21 we were adopting. The statute requires us to adopt regs
22 to deal with this issue in some way. And we're saying,
23 consistent with the requirement to deal with this issue in
24 some way, we've done the following. So we could wordsmith
25 that a little bit more if that helps. We could delete

1 that clause and I think -- and certainly it's on the
2 record here today, I think we're still fine. It's not as
3 if there's a problem.

4 BOARD MEMBER PEACE: Because Everybody keeps
5 making to 2308, 2308. Once we pass these regs, we don't
6 need to make reference to 2308 anymore, is that correct?
7 Once these regulations are in place we don't -- why do we
8 need to make reference to 2308? Twenty-three O eight just
9 told us to adopt regulations.

10 STAFF COUNSEL BLOCK: That's correct.

11 CHAIRPERSON MOULTON-PATTERSON: So take it out,
12 is that what your position is?

13 BOARD MEMBER PEACE: Well, that would be my
14 thought, yeah.

15 CHAIRPERSON MOULTON-PATTERSON: I would be in
16 agreement with that.

17 Mr. Jones.

18 Oh, no. Mr. Paparian was next. I'm Sorry.

19 BOARD MEMBER JONES: That's all right.

20 BOARD MEMBER PAPARIAN: Madam Chair, so what's
21 before us right now is the question of whether to leave
22 "disposal" in as the staff suggested or take it out?

23 CHAIRPERSON MOULTON-PATTERSON: Yes.

24 BOARD MEMBER PAPARIAN: Or is the whole
25 resolution before us?

1 CHAIRPERSON MOULTON-PATTERSON: No, this --

2 BOARD MEMBER PAPARIAN: This is just the disposal
3 issue?

4 CHAIRPERSON MOULTON-PATTERSON: It's the disposal
5 issue. And then we'll adopt the resolutions, as I
6 under -- that's what I'm understanding the staff wants me
7 to do.

8 BOARD MEMBER PAPARIAN: Yeah. And just to -- I'd
9 defer to you, Madam Chair. But just rather than to get
10 into substitute motions and this and that, I wonder if we
11 should just take a straw vote as to where everybody is and
12 whether to include "disposal" or not. I think we all want
13 to support the final product. I don't know if Mrs. Peace
14 intended to put in a substitute motion or how -- I'll
15 defer to you.

16 CHAIRPERSON MOULTON-PATTERSON: Well --

17 BOARD MEMBER PAPARIAN: Mr. Jones I think is
18 arguing to take "disposal" out. I've been supportive of
19 Mrs. Peace about --

20 CHAIRPERSON MOULTON-PATTERSON: I think we vote
21 up or down.

22 BOARD MEMBER PAPARIAN: Yeah, Okay.

23 CHAIRPERSON MOULTON-PATTERSON: I mean did you --
24 was your intent to put in a substitute motion, Mrs. Peace?
25 Or were you just going to vote?

1 BOARD MEMBER PEACE: Well, I thought we would
2 vote on that.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. So Mr.
4 Jones has a motion for Alternative 3; is that correct?

5 BOARD MEMBER JONES: Yes, ma'am. For issue one?

6 CHAIRPERSON MOULTON-PATTERSON: Yeah, on this
7 issue.

8 And we're going to take a vote on this and
9 then -- and do we have a second for that?

10 VICE CHAIRPERSON MEDINA: I'll second it.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina
12 seconded that.

13 BOARD MEMBER JONES: Just one quick question.

14 On --

15 CHAIRPERSON MOULTON-PATTERSON: Then we're going
16 to go to the actual resolution.

17 BOARD MEMBER JONES: Right. And this is just to
18 get some clarification on Ms. Peace's issue on 2308.

19 The 2308 told us to do regs and it also told us
20 to treat the disposal of these materials -- that it's not
21 disposal and it's not diversion. Do we lose any of that?
22 Because I don't have a problem with taking this out in
23 this paragraph as long as we don't lose that intent. I
24 mean you know what I mean.

25 ACTING CHIEF COUNSEL BLEDSOE: If I may answer

1 that question, Mr. Jones.

2 Twenty-three O eight referred to the time prior
3 to the Board's adoption of the these regulations. So upon
4 the adoption of these regulations it's the Board's
5 determination that makes the difference. It doesn't
6 matter what the legislation says.

7 BOARD MEMBER JONES: So if we were to just say --
8 just take out in that first underlying "whereas" the part
9 that says, "consistent with provisions of 2308 (Chavez)
10 Chapter 993, Statutes of 202," and just struck that, that
11 doesn't change anything. It's in the record. But it
12 takes away that piece of that sentence.

13 STAFF COUNSEL BLOCK: As I've indicated, we
14 included that clause just to sort of make it very clear
15 what we were doing. I think, particularly with this
16 discussion going on here today, it's still also clear what
17 we're doing. So removing it would not affect the --

18 CHAIRPERSON MOULTON-PATTERSON: I would strongly
19 recommend it be removed.

20 BOARD MEMBER JONES: Madam Chair?

21 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

22 BOARD MEMBER JONES: I'd like to amend my motion,
23 not only to include on Issue 1 Alternative 3, but to
24 strike the words "consistent with the provisions of AB
25 2308 (Chavez) Chapter 993, Statutes of 202."

1 CHAIRPERSON MOULTON-PATTERSON: We have a motion
2 by Mr. Jones.

3 Is that okay with the seconder?

4 VICE CHAIRPERSON MEDINA: Second, yes.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. Motion by
6 Jones, seconded by Medina, to adopt Alternative 3.

7 Would you call the roll on this please.

8 SECRETARY WADDELL: Jones?

9 BOARD MEMBER JONES: Aye.

10 SECRETARY WADDELL: Medina?

11 VICE CHAIRPERSON MEDINA: Aye.

12 SECRETARY WADDELL: Paparian?

13 BOARD MEMBER PAPARIAN: No.

14 SECRETARY WADDELL: Peace?

15 BOARD MEMBER PEACE: No.

16 SECRETARY WADDELL: Washington?

17 BOARD MEMBER WASHINGTON: Aye.

18 SECRETARY WADDELL: Moulton-Patterson?

19 CHAIRPERSON MOULTON-PATTERSON: I think Ms.
20 Peace's arguments are very, very persuasive. I'm really
21 torn on this one. But I do want to see these regs go out,
22 and so I'll be voting aye.

23 Okay. Now we go to the resolution; is that
24 correct?

25 Mr. Levenson.

1 Do we do 2003-448 first?

2 DEPUTY DIRECTOR LEVENSON: Correct.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. And a
4 motion?

5 BOARD MEMBER JONES: Madam Chair?

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: I'd like to move adoption of
8 Resolution 2003-448, the consideration of the adoption of
9 a Negative Declaration (State Clearinghouse No.
10 2003022081) for the proposed regulations for the
11 construction and demolition waste and inert debris
12 disposal (Phase II) tiered regulations.

13 VICE CHAIRPERSON MEDINA: Second.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
15 motion by Jones, seconded by Medina.

16 Please call the roll again.

17 SECRETARY WADDELL: Jones?

18 BOARD MEMBER JONES: Aye.

19 SECRETARY WADDELL: Medina?

20 VICE CHAIRPERSON MEDINA: Aye.

21 SECRETARY WADDELL: Paparian?

22 BOARD MEMBER PAPARIAN: Aye.

23 SECRETARY WADDELL: Peace?

24 BOARD MEMBER PEACE: Aye.

25 SECRETARY WADDELL: Washington?

1 BOARD MEMBER WASHINGTON: Aye.

2 SECRETARY WADDELL: Moulton-Patterson?

3 CHAIRPERSON MOULTON-PATTERSON: Aye.

4 BOARD MEMBER JONES: Madam Chair?

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

6 BOARD MEMBER JONES: I would like to move
7 adoption of Resolution 2003-449 revised, to exclude what I
8 had asked to be excluded on that one line and to reflect
9 language that needs to be changed wherever it needs to be
10 changed, that under Issue 1, Alternative 3; Issue 2,
11 Alternative 3, and Issues 3 and 4, Alternative 2.

12 VICE CHAIRPERSON MEDINA: Second.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
14 motion by Mr. Jones, seconded by Mr. Medina, to approve
15 Resolution 2003-449 revised.

16 Just to be very clear, let's call the roll again.

17 SECRETARY WADDELL: Jones?

18 BOARD MEMBER JONES: Aye.

19 SECRETARY WADDELL: Medina?

20 VICE CHAIRPERSON MEDINA: Aye.

21 SECRETARY WADDELL: Paparian?

22 BOARD MEMBER PAPARIAN: Aye.

23 SECRETARY WADDELL: Peace?

24 BOARD MEMBER PEACE: Aye.

25 SECRETARY WADDELL: Washington?

1 BOARD MEMBER WASHINGTON: Aye.

2 SECRETARY WADDELL: Moulton-Patterson?

3 CHAIRPERSON MOULTON-PATTERSON: Aye.

4 That takes us to the end of our regular agenda.

5 I don't see any slips for public -- final public
6 comments.

7 We have a very short closed session on personnel
8 matters, Government Code 11126(a)(1). And I would suggest
9 that we go in and do that before lunch if that's okay with
10 everyone else. And then our meeting will be adjourned.

11 And hearing no objection, we'll go into closed
12 session.

13 BOARD MEMBER PEACE: I just wanted to thank P&E
14 staff. I know this was controversial. I know there
15 was --

16 CHAIRPERSON MOULTON-PATTERSON: Can we have
17 attention, please.

18 Ms. Peace.

19 BOARD MEMBER PEACE: There was -- a lot of work
20 went in to this by P&E staff, especially Allison. And I
21 just wanted to say thank you for a job well done.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
23 Ms. Peace.

24 (Thereupon the Board recessed into closed
25 session.)

1 CHAIRPERSON MOULTON-PATTERSON: I'd like to
2 adjourn the meeting of -- the Board has returned from
3 closed session with no action to report.

4 And this meeting is adjourned.

5 (Thereupon the California Integrated Waste
6 Management Board of Administration meeting
7 adjourned at 12:30 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board of
7 Administration meeting was reported in shorthand by me,
8 James F. Peters, a Certified Shorthand Reporter of the
9 State of California, and thereafter transcribed into
10 typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 26th day of September, 2003.

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23 JAMES F. PETERS, CSR, RPR

24 Certified Shorthand Reporter

25 License No. 10063